

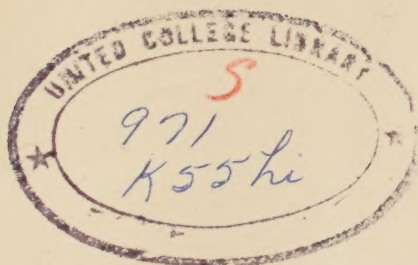


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# THE HISTORY OF CANADA.

BY  
WILLIAM KINGSFORD, LL.D., F.R.S. [CANADA].

VOL. X.  
[1836-1841.]  
[WITH MAP.]



TORONTO, DOMINION OF CANADA:  
ROWSELL & HUTCHISON.

LONDON:  
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## PREFACE TO THE TENTH VOLUME.

This, the tenth volume, concludes the history on which for the last twelve years I have been engaged. In stating the fact, I am doubtful whether I should ask the forgiveness, or the congratulations of my subscribers, that it has been extended to the length it has reached. I have myself been guided by the opinion, that any national history is not to be judged by the brevity with which it is written, but rather by the thoroughness with which the events are recorded, and, what is more to be looked for, by its accuracy of information. My feeling has been, that while I should present my narrative with conciseness and congruity, I should not fail from any insufficiency of fact. I may repeat what I have already said, that I have never wittingly misrepresented an event, or suppressed an incident, which might interfere with my own preconceived view.

*Jacta est alea*, as Bayle said on the completion of his dictionary; and all that I have a right to ask is, that I be judged by my labours.

This work has exacted many years of labour of the writer's life, and some personal sacrifice on his part. Had it not been for the generous assistance of three friends, whose important aid was given in the crises of its production, he would have failed in its completion. It was this aid which permitted its continuation to the period designed; that is to say, that the work which this preface introduces is ended. From feelings of delicacy I abstain from mention of their names. I have received many acts of kindness from other quarters, but the service rendered to me by those whom I may specially refer to as my benefactors, alone permitted

the work to be brought to its present condition. I can only express my deep sense of the obligation under which they place me, and I trust they will accept this public acknowledgment of my thankfulness.

The Index contained in this volume refers to the contents of the last six volumes, the period of English rule; that of the French rule may be found at the close of volume four. My effort has been to include every historical event, and the name of every actor of importance so that they may easily be referred to.

I have now only to say farewell to those readers who have accompanied me for the last twelve years in the history of this portion of British America, and to express the fervent hope that the dominion will continue to advance in prosperity, justice, and wisdom, beneath the flag which for a thousand years has braved the battle and the breeze; and will unceasingly wave over this fair territory, as an integral part of the British empire, on a people in no way degenerate in the thought, word, and action which are the true attributes of manhood.

W. K.

OTTAWA, ONTARIO,  
*24th of May, 1898.*



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. MAP.

SKELETON MAP OF LOWER CANADA, SHEWING TERRITORY AFFECTED  
BY OUTBREAKS OF 1837-1838. p. 53.





# BOOK XXXIV.

LOWER CANADA.

FROM THE ARRIVAL OF SIR JOHN COLBORNE AS  
COMMANDING THE FORCES  
TO THE ARRIVAL OF LORD SYDENHAM.

THE GOVERNMENTS OF  
LORD DURHAM  
AND  
SIR JOHN COLBORNE.

THE REBELLION OF 1837 AND 1838.



# THE HISTORY OF CANADA

FROM THE EARLIEST DATE OF FRENCH RULE.

## CHAPTER I.

The close of 1835 was marked by great activity on the part of all who claimed the title of the constitutional party. There were meetings throughout the province expressive of loyalty to the connection with the parent state, and of the firm determination, under no circumstances to shrink from any sacrifice for its preservation. The associations of Quebec and Montreal appointed committees of correspondence, for there was a common fear that events must terminate in an appeal to arms. It was not possible to conceive, that the violence of language and pertinacious advocacy of a policy unflinchingly advanced would end in sound and fury signifying nothing. In December, 1835, the annual meeting of the Montreal association was held, when the executive committee for the coming year was appointed. A report was made of the communication that had taken place with the imperial commissioners. The recommendations that had been made had been received with official courtesy only, and it was plain that the association was looked upon by the commission with little favour. Ward committees were accordingly organised to advocate the principles which the association supported. The establishment of registry offices ; the abolishment of the feudal tenure ; the continued improvement of the harbour of Montreal, and of the canal navigation of the Saint Lawrence to correspond with the works undertaken by Upper Canada were earnestly asked.

A protest was made against the payment, without authority of law, of the contingencies of the house of assembly. Further, a powerful address to the inhabitants of British America, defining the views of the association, was widely circulated.

Similar proceedings were adopted at Quebec, shewing that the British and Irish residents, comprising one-fourth of the population, were resolutely prepared to resist the pretensions of the majority of the assembly.

The opening of spring in 1836 had been late. An unusual quantity of snow had fallen during the winter, which had been one of intense cold. The *pont* at Quebec on the Saint Lawrence had not broken up until the 8th of May. The commissioners had continued their investigations, being accessible to all who offered information, listening to every remonstrance from either side, associating with men of all parties, but wisely reticent of their own opinions. At the proper period mention will be made of their reports; at this time there could be but speculation as to the views they had formed. Some private letters\* of Mr. Elliott, the secretary, an official of the colonial office, published for the first time in later years, shew that his sympathies ran with the conciliatory policy of lord Glenelg; proving to a great extent the fact that in the mind of the commissioners there was strong belief in its success. They seem to have entirely forgotten that conciliation had been carried to the extreme limit both by sir James Kempt and lord Aylmer; that from the days of lord Goderich, when colonial secretary, the policy had been followed of recognising every just demand that had been preferred, and that the dispute concerning the civil list was not affected by imperial considerations; but solely had in view the protection of the unfortunate civil servants left without the means of providing for their families.

An event had occurred in February, 1836, which had a remarkable influence on the politics of Lower Canada. Sir John Colborne, the lieutenant-governor of Upper Canada,

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\* [Can. Arch., 1883, pp. 160-167]



had been relieved from his government of that province. He reached Montreal on the 1st of that month, after having, on his journey from Toronto to Montreal, received from the inhabitants on the whole route the most gratifying testimony to the great respect in which he was held. In Montreal he had been similarly welcomed. He remained in the city until the 19th of May, when he proceeded to New York to embark for England. On the eve of starting he received despatches from the colonial secretary and from lord Hill the commander-in-chief, appointing him commander of the forces in the two provinces, with the local rank of lieutenant-general. Previous to returning to Canada sir John Colborne paid a visit to Washington, and some of the principal cities of the United States, and reached Montreal on the 30th of June. On July the 1st he issued a general order of his assumption of the command.

Sir John Colborne, who subsequently became lord Seaton, was born in 1776. He was educated at Christ's hospital and at Winchester. He entered the army at the age of eighteen and served in every campaign, to the close of the war at Waterloo in 1815; in Holland, in Egypt, in Sicily and Calabria; he was at the battle of Maida, on July the 4th, 1806, in which sir John Stuart defeated the French general Regnier. He had been military secretary to general Fox and to sir John Moore, and was present on the 16th of January, 1807, at the battle of Corunna, in which that gallant general lost his life. He had been actively engaged throughout the peninsular war. At Waterloo he commanded his old regiment, the 52nd. His career as lieutenant-governor of Upper Canada, from the 4th of November, 1828, until the 25th of January, 1835, will be related in the history of that province.

The lives of few men have been more illustrious. In Canadian history he must be mentioned with the highest respect. He was at that time 60 years of age, in the height of his reputation. His presence gave confidence to the British population, determined to sustain the constitution, and to resist the violence of the partisans of the assembly,

daily increasing in virulence. It was equally welcome to those French Canadians who disapproved the refusal by Mr. Papineau of all compromise, and, driven to the choice of sustaining his pretensions or siding with the government, declared themselves supporters of British connection. It is no exaggeration to say that the moral influence of the presence of sir John Colborne in Canada was equal to that of the arrival of 10,000 disciplined troops ; and it will be seen that his sentiments of mercy and conciliation were fully equal to that of his courage and conduct in the field. No single man suffered on the scaffold for the events of 1837. It was only after the seven days' insurrection of 1838, and the petty, miserable outrage at Beauharnois, that examples were considered necessary in the case of the leading delinquents. The letters of Colborne shew the pain with which he followed what he felt was his stern duty on this occasion. In accordance with the school in which he had been reared, he acted only on the principle he held incumbent on him to follow for the protection of the province. The epitaph of his career in Canada is written in the acts he performed, and in the fact that on the arrival of lord Sydenham the province was given over to him, in a condition of peace and re-established prosperity.

In June a select general committee of the constitutional society had met in Montreal, composed of delegates from all parts of the province, at which, among other resolutions, a vote was carried to petition the crown for the recall of lord Gosford. Some opposition, however, was shewn to the proceedings, especially from Quebec, and the resolution was not acted upon.

The legislature was called together on the 22nd of September, 1836. Lord Gosford explained, that the house was convened at that unusual season owing to the events which had taken place at the close of the last session. It would be his duty, he said, to submit the king's answer to the petition to the throne, and by command he would lay before them the instructions under which he had assumed the

government. He again recommended to their attention the estimates of the current year and the accounts shewing the arrears unpaid. The course taken by the house had been adopted under a misconception, and the opportunity was now given of reconsidering this decision. He congratulated the house that the summer had passed without signs of epidemical disease. He claimed that he had not ceased to remember the two main objects of his government, "the removal of abuses, and the reconciliation of opposing parties."

The address in reply, delivered on the 27th of September with much verbiage, reiterated the demand for an elective legislative council. It was not deemed necessary to enter upon the various subjects adverted to, until the governor had communicated his reasons for convoking parliament. The council was described as a branch over which the country was without control; and it had invariably shewn itself hostile to its institutions and inhabitants.

After briefly acknowledging the address, the governor sent down lord Glenelg's despatch of the 7th of June, 1836, which embodied the king's answer to the petition. As directed, he communicated to the house a complete copy of his instructions, from the conviction that the views of the house had been formed upon the "insulated extracts from them. It was from the perusal of them that the house had declared that the researches, authorised to ascertain the means of doing justice, were on several of the most essential points limited by preconceived opinions and anticipated decisions." The despatch set forth that the commissioners were placed under no restrictions. On the subject of the legislative council, it was said that the principle of the constitution of 1791 was to the effect that there should be two distinct and independent houses of the legislature. It remained for the commission to inquire "how the most effectual means can be taken for securing such a legislative council as shall enjoy at once a due share of public confidence and a full exercise of an enlightened and independent judgment." The remarks on the executive council it is necessary to copy

*in extenso*, for they establish clearly that no claim was ever preferred for the system of responsible government as it is now in operation. The address further advances a complaint connected with the executive government of Lower Canada, a complaint which does not find a place either in the 92 resolutions of 1834 or in any of the earlier addresses or votes of the house of assembly. The house now, however, states the necessity of establishing in the province what is termed "a responsible and popular government."

"Understanding these expressions in their obvious sense, his majesty is happy to declare that they do not advance beyond the principles by which it is his pleasure and command that the executive government of Lower Canada should be administered. It is his majesty's desire and injunction that full and early explanations should be afforded to the representatives of the people of all important measures adopted by the government ; that the assembly should enjoy the most ample opportunity of explaining both to the king himself, and his majesty's representative in the province, their opinions and their wishes respecting every such measure ; that the imputed misconduct of any public officer, with the exception of his majesty's representative, the governor, who must be responsible directly to the king and the imperial parliament, should be closely and impartially investigated ; that means should be devised for bringing to trial and punishment within the province itself every such officer to whose charge any malversation in office may be laid ; and that effectual security should be taken for the zealous co-operation of all subordinate officers in every measure advised by the legislature and sanctioned by the king for the general welfare of his majesty's subjects."

The repeal of the Tenure Act was not allowed, as it might be represented as "an unnecessary interference with the internal affairs of the province." Respecting the demand for the repeal of the act of the British North America land company, it was plainly said, "No considerations, however



urgent, of temporary or apparent expediency, not even the desire to conciliate the good will of the assembly of Lower Canada, than which no motive can be of greater weight, could reconcile his majesty to a measure, the principle of which would endanger the foundation of all proprietary titles and all social rights." •

The despatch, referred to a committee of the whole, led to an address, carried by 58 to 6: it was presented to the governor on the 3rd of October. It was of great length. One passage only needs to be given: "In reference to the demand for a supply, relying on the salutary maxim, that the correction of abuses and the redress of grievances ought to precede the grant thereof, we have been of opinion that there is nothing to authorise us to alter our resolution of the last session. Your excellency will bear in mind that our determination to obtain justice by means warranted by the best approved precedents and by the spirit of the constitution itself, was taken at a more distant epoch, and that as a mark of our confidence in you, we temporarily departed from that determination by voting a supply for six months. The conclusion of our address contains an explanation of our motives and of the difficulties which it was not in our power to ward off; the same circumstances, as well as the previous consideration of the salutary principle above referred to, render it incumbent on us, in the present conjuncture, to adjourn our deliberations, until his majesty's government shall, by its acts, especially by rendering the second branch of the legislature conformable to the wishes and wants of the people, have commenced the great work of justice and reform and created a confidence which alone can crown it with success."

This address was received in the usual form on the 4th of October, 1836. The governor briefly stated that the object in summoning parliament had been to restore some interval of repose to the Canadian people. The province was threatened with the abandonment by one branch of the legislature of the duties confided to it by the constitution.

The day following lord Gosford prorogued the parliament. The house had sat thirteen days, from the 22nd of September to the day of prorogation, the 4th of October. Two bills only had been introduced ; one for the appointment of an agent in London ; the second, to amend the imperial constitutional act so far as related to the legislative council. It was the same act which had been brought before the house the preceding session. Neither reached the third reading.

It may thus be seen that the principal demand of the assembly was for an elective legislative council. It is, therefore, pertinent to examine what would have been the consequence of its introduction. The one effect would have been to place the country under French Canadian domination, for the council would have partaken of the character of the assembly. The proportion of the French Canadian to the British population was 3 to 1. This proportion of the British inhabitants, entirely without representation in the house, was subjected to the anti-commercial legislation such as the majority was enabled to impose as law, and to the serious impediments thrown in the way of emigration. The sole consideration it could receive was by the intervention of the council.

The history of this demand is curious. It did not originate in the province. It was never asked in Upper Canada, and was not proposed in Lower Canada until 1831. It was negatived on that occasion and in the following year. In 1830 a book appeared, recommending the election of the council. It bore the name of Mr. Laterrière, but was written by Mr. Roebuck. It was not the first contribution of Mr. Roebuck to Canadian literature, for in 1822 he had published a pamphlet\* strongly advocating the union of the provinces. This work was reprinted in Canada in 1835 during Mr. Roebuck's violent proceedings and is now in existence. The proposition attracted the attention of some of the counties adjoining the Richelieu. Finally its doctrine was accepted by Mr. Papineau, who, in 1830-31, led Mr. Bourdages to

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\* [It is catalogued by Mr. Gagnon No. 3047, p. 426.]

move a resolution to that effect. The proposal, therefore, had its origin with Mr. Roebuck, and it was by his instigation of perseverance in political agitation, that in an indirect way the insurrection of the following year may be attributed to his influence. His incendiary advice excited men to action to obtain this remedy for their imaginary grievances. Nor can Mr. Roebuck be regarded as disinterested in the advocacy of this policy. As agent of the house of assembly, he received £1,100 a year sterling, punctually paid. He was fully aware that the legislative council would never recognise him as the agent of the province, so he was not without interest in prolonging the agitation against the constitutional character of that house.

The commissioners having completed their investigations, sir Charles Grey at the end of November left Canada, *via* New York, for England. Sir George Gipps and Mr. Elliott remained in the province until February, 1837. The commissioners gave six reports, dated the 30th of January, the 12th of March, the 3rd of May, the 17th of June, and finally on the 15th of October, 1836. There was a supplemental report concerning the tenure of property by the seminary. These reports had little direct influence upon political life in Canada; but they gave much carefully gathered information, which must have been most useful to lord Durham. The commissioners considered an elective legislative council undesirable, the entire English-speaking population, one-fourth of the whole, being opposed to the principle. The demand of change of the constitution of the executive council they formulated into the system of responsible government as it now exists, although not to be dependent on the vote of the house. Such a concession they conceived would be the bestowal of power incompatible in a colony. The opinion was expressed that Canada should be left to govern its own internal affairs, but not be endowed with institutions not in accord with the unity of the empire. The right of the crown to all uncultivated lands should be maintained inviolable. The commissioners submitted the question, whether in the event of some imperious

necessity, the total suspension of the constitution was less objectionable than any partial interference with particular clauses. The surrender to the assembly of the casual and territorial revenue was recommended, on the assembly paying the amounts due to the public servants that had remained unpaid for the last four years, and granting a civil list for the administration of justice, and the payment of certain services named by them.

On the meeting of the imperial parliament the affairs of Canada obtained earnest consideration. Lord John Russell, as chancellor of the exchequer, on the 6th of March introduced a series of resolutions in view of the emergency. They were met by Mr. Leader moving, seconded by Mr. Roebuck, that the legislative council should be elective. The proposition was advocated by Mr. O'Connell and sir William Molesworth, while Mr. Robinson and sir George Grey sustained the resolutions. The position of the British population was utterly ignored by sir William Molesworth; he compared Canada to Ireland, and claimed that the house of assembly should be accepted as representative of the whole of the population of the province, entirely setting aside the fact that the British in the assembly were virtually almost unrepresented; although holding possession and control of the great commercial interests of the country. Mr. Roebuck's long speech was in his usual strain of vituperative misrepresentation. The debate was adjourned until the 8th, when it was recommenced by Mr. Hume. During the speech of Mr. Hume, Mr. Roebuck moved a count out. The circumstance was explained in the debate by lord Stanley, who on this occasion spoke with his accustomed power. The motion, he said, had been made by Mr. Roebuck, to convey the idea that the condition of Canada was a matter of indifference to the members of the house of commons. He had been present at the debate of the 6th, but he had rarely seen the house more full or more attentive to the proceedings. On that afternoon he was coming down to the house at half-past five, when he met several members going homeward. "What?" he asked, "is

the house up?" "No," was the reply, "but Hume is where he will be for some time." Lord Stanley then proceeded to complain that the time of the house had been needlessly taken up for this long period by the introduction of matters unconnected with the debate, Mr. Hume having read letters of length written by himself, and to himself, which had no bearing on the subject. It was under these circumstances that Mr. Roebuck had moved a count out of the house, but it had failed of its purpose. Besides lord Stanley, Mr. Gladstone, Mr. Labouchere, lord Howick, Mr. Cressett Pelham and Mr. Leach took part in the debate.

The first, second and third resolutions were carried by a majority of 318 to 56.

Sir George Grey trusted that on so pronounced a vote being given all further opposition to the resolutions would cease. Such a proceeding was in no way in accordance with Mr. Roebuck's views. He declared that that course could not be adopted.

The fourth resolution against the elective council was carried by 287 to 39.

The debate was resumed on the 21st of April, when Mr. Leader moved, seconded by Mr. Hume, that the resolutions be read that day six months, but after a debate of some length the motion was negatived by ayes 29, noes 182. It was resumed on the 24th, when Mr. Roebuck moved a select committee to inquire into the character of the North American land company; that was also lost. Mr. Roebuck moved the repeal of the Canada Tenure Act, but it was also lost. Mr. Roebuck finally abandoned his efforts to impede the resolutions, and they were carried.

The resolutions, ten in number, had been introduced by lord John Russell in a speech of much moderation. He spoke of the great reluctance he felt in proposing them, that the interference of parliament was a necessity, and could not stop short of the course proposed. He had no desire to censure the legislature of Lower Canada, but it might be said of popular assemblies that they are hardly ever wrong in the



commencement of their struggles and hardly ever right at the conclusion of them. Lord John made a rapid but thorough survey of the affairs of the colony. Mr. Robinson, in advocating the resolutions, quoted *La Minerve*, which had stated that immediate separation from England was the only means of preserving French Canadian nationality.

The resolutions summarised were as follows :—

1. That since the 1st of October, 1832, no provision had been made for defraying the charges for the administration of justice, or for the support of the civil government. That the sum of £142,160 14s. 6d. will be due on the 10th of April.

2. That during the session in the months of September and October, 1836, the attention of the house was directed to the arrears due.

3. That the house declined to vote a supply, and declared that it persisted in a demand of an elective legislative council, the repeal of the North American land company act, a demand for the free exercise of its control over all branches of the executive government, and that it was incumbent to adjourn their deliberations until his majesty's government had rendered the second branch of the legislature conformable to the wishes and wants of the people.

4. That it is inadvisable to make the legislative council of Canada an elective body, but that measures be taken to secure for it a greater degree of public confidence.

5. That while expedient to improve the composition of the executive council, it is inadvisable to subject it to the responsibility demanded by the house of assembly.

6. That the legal title of the North American Land company be kept inviolate.

7. That so soon as provision be made by law for the discharge of lands from feudal dues and services, the Canada Tenure Act and the Canada Trade Act so far as they relate to the tenure of land should be repealed.

8. That for paying the arrears due for the charges for the administration and the civil service, the governor-general be empowered to issue from the revenues in the hands of the

receiver-general, the sums necessary for the payment of the before mentioned sum of £142,160 14s. 6d.

9. That it is expedient to place at the disposal of the legislature the proceeds of the hereditary, territorial and casual revenue, when the house sees fit to grant a civil list for the administration of justice and the expenses of the civil government.

10. That the legislatures of Lower and Upper Canada be authorised to make joint regulations for determining and adjusting all questions respecting the trade and commerce of the provinces.

The news of these resolutions, introduced in the imperial house of commons on the 6th of March, became known in Canada in the middle of April, and caused the greatest indignation with a large number of those who had partaken the views of the majority.\*

It may be remembered that when the Gosford commission commenced its proceedings, the house of assembly refused all recognition of its existence as not having parliamentary authority. Lord John Russell had accordingly considered it advisable to give the force of parliament to the measures proposed. As the resolutions shew, the house of commons refused to recognise the principle of making the legislative council elective, and to constitute an executive responsible to the house of assembly: a provision rather in anticipation of such a demand than a refusal of it; for it had not been so advanced in Lower Canada. It refused to repeal the Canada Tenure Act and the Canada Trade Act, until provisions were made by the provincial assembly making their operation unnecessary, and it had declared that the North American Land Act should be inviolate. Further, the governor-general

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\* I cannot pretend even to give a synopsis of this long debate, extending over the four nights named. It occupies in Vol. XXXIV. of the *Mirror of Parliament*, pp. 456-473 and 515-542. In Vol. XXXV., pp. 1163-1172, 1183-1191; total, 61 pp. Moreover, the debate is of little political significance at this time, further than to shew that the views taken by the extreme liberals were certainly not based on a knowledge of Canadian affairs, but had their origin in the *doctrinaire* theories of the speakers.

was empowered, without the authority of parliament, to pay the arrears due for the charges of the administration of justice, and for the civil service. The offer was repeated of placing at the disposal of the legislature the proceeds of the hereditary territorial and casual revenue, contingent on the vote of the civil list ; not, it must be remembered, for any imperial necessity, but as a protection to those engaged in the government service of Canada. The legislatures of Upper and Lower Canada were also authorised to make joint regulations to adjust the questions of trade and commerce.

I have held it necessary to state distinctly the grounds of offence against the mother country which led to the painful events I have to narrate, for they are imperfectly understood and deliberately misrepresented. We still read so much of the *lèse majesté* of French Canadian nationality of those days, that it is most essential that the causes of the rebellion of 1837 receive careful analysis. If there was any nationality assailed, and the word is unwillingly used by me, for it is time that these distinctions of origin should be merged in the one word Canadian, it was that of the English-speaking people. The English and Irish were entirely unrepresented in the assembly, although forming one-fourth of the population ; the only protection they obtained was in the constitution of the legislative council, and to have made that council elective would have placed them entirely at the mercy of that *nationalité* which it was the boast of Mr. Papineau he was making an effort to build up. The refusal to recognise the imperial acts of parliament, the repeal of which had been demanded, was little less than the repudiation of the colonial relationship. On the other hand, the demand for the grant of the civil list was dictated by the sense of right which called for the protection of the public servants, and which to-day, in the working of the government of the dominion, is one of the vital principles observed.

It is positively affirmed that Mr. Papineau never countenanced the insurrection and that his policy was only

to urge a continued agitation to coerce the British government to compliance with his demands. If the fact be admitted, it shews how little he thought of the uncertainty of the movement of the traditional rolling-stone set in motion down a steep descent, and how far he failed to consider the strength of the power he had to oppose. When the time came for action, a few hours only were needed to quiet the turmoil he had created.

The immediate consequence of the resolutions when known in Canada was the assembly of a large meeting at Saint Ours, the first village in the ascent of the banks of the Richelieu, eleven miles from Sorel. It was held on the 7th of May, 1837; it was estimated some 1,200 were present, gathered from the neighbourhood. Dr. Wolfred Nelson, who practised as a physician at Saint Denis, seven miles south of Saint Ours, and at the same time was owner of a distillery, took a prominent part in calling the meeting together. The resolutions passed were expressed in most violent language, and may be regarded as the forerunners of the insurrection of six months later.

It was declared that the resolutions of the house of commons had deprived the province of its security and of all good government; that their adoption was a flagrant violation of the capitulation, the treaty and the constitutional acts; that the reciprocal obligations of affection and obedience on one side and protection and security on the other were annulled; that submission to a government which had recourse to injustice, to force and to violation of the social compact could be measured only by numerical force, joined to the sympathy to be found in other quarters. "That the machavelianism which since the cession has accomplished all the acts of the government, the bad faith by which they have hitherto been characterised, the weakness shewn in every page of the reports of the commissioners, and in the speeches of ministers, who do not blush to allege our division and small numbers as reasons for refusing us justice, inspire us only with the profoundest disgust and most marked contempt

for men who, governing one of the most powerful and noble countries of the globe, are members of such an administration." That the people had waited for justice for 30 years; that if fear had broken some of their chains, the love of power had forged others more heavy; that they had ceased to expect justice, and had renounced the hope of seeking it beyond the seas; that the country had been abused by false promises, which had induced them to fight against a people who offered liberty and equal rights; that on the other side of the line 45° were to be found their natural friends and allies.

They denied the right of the parliament of England to legislate for the internal affairs of the province; the non-exercise of the right was guaranteed by the constitution, and acknowledged when it was feared that liberty and independence were offered by the neighbouring republic. That in consequence they considered as null and void the Tenure Act, the Canada Trade Act and the Act of the land company.

The declaration followed "That we will abstain as much as possible from using and consuming imported articles, especially those which pay the highest duties, such as tea, tobacco, wine, rum, &c., and will use and consume in preference productions manufactured in this colony. That we shall consider him to deserve well of his country who shall establish manufactories of cloth, linen, sugar, spirits, &c. That considering the laws of trade as of no effect, we look upon the trade usually designated contraband (smuggling) to be perfectly fair; we regard this traffic as perfectly honourable and will do all we can to favour it; to support those who pursue it as deserving well of their country, and will hold those to be infamous who may inform against them."

An association was formed to carry out the resolutions; and in imitation of the O'Connell subscription in Ireland a tribute was created to pay homage to L. J. Papineau, a man stamped by God to be a political chief, the regenerator of a nation. Thanks were voted to the zealous and able speakers who had upheld their rights in the house of commons; to the



working men of London who had petitioned the house of commons in their behalf, and to the brethren of the political union of Toronto. It was resolved that in the event of a general election they should reject those who had forfeited their words, forgotten their duty, and who had betrayed their country, either by ranging themselves on the side of their adversaries, or by cowardly absence, when the country expected from them an honest expression of their opinions.

These sentences are of importance as shewing that many were abandoning the extreme views of Mr. Papineau, and they further explain the system of terrorism he adopted towards all who opposed him. It has been related, that in the last election all who had shewn independence of spirit had been excluded from the house by his influence, and the wording of the resolution was to awaken the fears of those who desired to keep their place in public life. A strong proof of the decrease of Mr. Papineau's influence soon to be made most apparent.

For the time, however, he stood forward as the leading spirit in the agitation he was directing. Other meetings of this character took place in the district of Montreal, in which Mr. Papineau appeared as the central figure. His popularity on the surface seemed to be as great as ever; he was escorted from parish to parish by the *habitants* turning out in *caliches*, or mounted. With great ceremony he came forward to declaim against British rule. The meetings were under the control of the "central committee," and great activity was shewn in calling them frequently and in encouraging the passage of the most violent resolutions.

Even lord Gosford's hopeful and placid nature was affected by these proceedings. On the 15th of June by proclamation he declared, that he would defend against these unlawful assemblages the prerogative of the king, and would preserve the peace. He therefore exhorted all the king's subjects to unite in the cause of peace and good order, to discountenance all writings of a seditious and dangerous tendency, and to eschew all meetings of a turbulent or political character. It

is no exaggeration to say that the proclamation was received with contempt. The meetings, which had now received the title of "anti-coercion," were persevered in more than ever with increased violence of language. They were held mostly on the Sunday, as is the custom in the country parishes after church, owing to the meeting of the *habitants* for the religious service. Flags with mottoes and devices were exhibited. The proclamation which had been placed on the public notice board was offensively torn down and the cries resounded "*Vive Papineau! Vive la Liberté!*" "*Point de despotisme! À bas la proclamation!*" "Hurrah for the English, who are our friends!" "Down with those who would injure us!" Language the most treasonable was used, the imperial government was denounced; the British ministry stigmatised as robbers, swindlers, and men as unwise as they were without honour. The people were told that they were threatened with servitude and degradation, and the only means of avoiding this ignominy was by trusting to their own strength and to the patriotism of the assembly. Prominent in this turmoil was Mr. Papineau himself, and no one was more violent in his denunciations of the terms of the proclamation and of those who had issued it.

Mr. Papineau lived in Montreal and he had commenced his mission of agitation in the parishes on the Richelieu. He now turned his attention to the district of Quebec and visited Saint Thomas, L'Islet and Kamouraska. In the county of Bellechasse and at L'Islet some of the *habitants* turned out with muskets; but below Quebec he did not meet the success that he had obtained in the counties of the Richelieu. A meeting was also held at Malbaie in the county of Saguenay.

An attempt was made by his adherents to hold a meeting in Montreal. The success of the effort was but moderate, and it passed without significance. The constitutional party at this date resolved to hold a meeting of the loyalists. It took place on the Place d'Armes on the 6th of July and was attended by several thousands of the British and French Canadians of the city and county. The hon. Peter McGill

moved the hon. George Moffatt in the chair. Messrs. Quesnel and de Bleury were elected vice-presidents. Four resolutions were proposed : That the unjustifiable refusal of the house of assembly to make the appropriation necessary for the administration of justice and for the civil government was the cause of the resolutions of the house of commons ; that the meeting disapproves of the outrageous proceedings of the majority in its refusal to proceed with public business, and that it was the cause of the greatest evils to the province and ruinous to the commerce of the country ; that the meeting expresses its detestation of the language used and of the disorganising measures recommended, as being opposed to the sentiments entertained by the loyal inhabitants of the province ; that the meeting is convinced that all grievances would be redressed ; that the connection with the mother country is necessary to the prosperity and advancement of the province ; and that any attempt to produce the dismemberment of the empire is directly opposed to the desires of the meeting.

On the 31st of July a similar meeting was held at Quebec. Several thousands attended, walking in procession with bands of music to the esplanade, where the assembly took place. It was accompanied by men bearing flags and banners, expressive of their allegiance to the British crown. A printing press mounted on a car accompanied the procession, from which was distributed as the procession moved onward an address from the loyal printers, asserting their faith in a free press, and that both reason and justice called for the support of the government. Mr. Woolsey was appointed president and Messrs. de Blois and Pelletier vice-presidents. A series of resolutions was adopted similar to those voted in Montreal, declaring the devotion of those present to the imperial relationship, and an address was voted to the governor-general, embodying the resolutions, praying that he would transmit them to England. They were presented on the 2nd of August. A few days later they were acknowledged.

The news had reached Canada on the 31st of July of

the death of William IV., which had taken place on the 20th of June. On the 1st of August, 1837, her majesty was proclaimed queen of British North America with all the ceremony that the event justified. The preceding afternoon sixty minute guns had been fired, while the royal standard appeared half mast high on the citadel. On the 1st of August there was a meeting at the *château*, when the oaths of allegiance were taken and preparations made for issuing the necessary proclamation with due formalities. A public meeting of the citizens of Quebec was held, when an address was sent to her majesty expressing condolence on the death of the late king, and congratulation to herself that she had mounted the throne of her ancestors. It did not fail to bring to her notice that her uncle, William IV., had visited Quebec as an officer in the navy, and that her father, when duke of Kent, had commanded a regiment in the garrison.

While the two cities of Montreal and Quebec gave these proofs of devoted loyalty to the imperial connection, a great part of the district of Montreal shewed unmistakable indications of its spirit of revolt. Saint Eustache, to the north-west of Montreal on the north bank of the branch of the Ottawa, known as the River of a Thousand islands, was the scene of much violence. This place was connected with Montreal by the bridge to île Jesus, passing through Saint Martin; a second bridge communicated with the main land of the county of the Two Mountains, about a league to the east of the village. Some 10 miles to the west of Saint Eustache is the village of Saint Benoit, also the centre of violent agitation; a feeling strongly countenanced by the *cure*, one Messire Chartier, the rare instance of an ecclesiastic taking part in this tumultuous agitation. Subsequently he acted with extreme violence and had to flee the country. The whole district was tainted with this spirit of disaffection which took the form of threatening the British inhabitants and such of the French Canadians as had declared themselves loyalists. Their property, in many cases, was destroyed, and no justice could be obtained; for the civil

power of the country was literally without strength to assert itself. Indeed, no one dared come forward to give information. Such was the organized intimidation and terrorism, that all testimony was suppressed as to the commission of the outrages. Application had been made to Montreal for protection, but for the moment it could not be given.

One feature of the anti-coercion meetings was the violent language of many of the magistrates and of several militia officers. It became a matter of such frequency that the governor-general felt himself called upon to notice it, and letters were written to ask if the language reported to have been used was correct. This proceeding was resented in the party press as an act of official insolence. Several of the persons addressed replied in the same tone and declined to recognise the right of the crown to interfere in the free expression of opinion; many affirming that they had received their commissions from the country. Many of the officials who held positions as commissioners for trying petty cases in the country parishes were forced to resign, in compliance with the pressure brought upon them by popular clamour, a course dictated to assure their personal safety.

Napierville, a small town, 7 miles west of the Richelieu and between 13 and 14 from the line, was the scene of much commotion. One Dr. Côté, at the head of a tumultuous mob, had gone round the county of L'Acadie, visiting the residences of the militia officers, forcing them to resign their commissions. One of this body, M. Timolean Quesnel, positively refused; a second visit was then paid him, and under the threat of personal violence and the destruction of his property by fire, his enforced compliance was obtained. A resolution was passed calling upon all officers to resign, or they would be looked upon with great suspicion (*d'un mauvais œil*).

The feeling predominated in the parishes of the Montreal district. At Quebec, also, it found some support. The central point of the movement was Saint Thomas, on the south shore, 30 miles below Quebec. One instance came into notice



of a French Canadian being ill-treated, owing to his calling "*Vive le roi, vive l'Anglais !*"

Among those distinguished by commissions in the militia was Mr. Papineau, who held the rank of major. On being asked for an explanation of his language at one of these meetings, he replied with such offensive insolence that he was dismissed in common with others who had similarly acted.\*

There was great reluctance to begin the queen's reign with rigorous measures towards Canada. Lord John Russell, in his place in the house, made a statement to that effect. He observed that he was unwilling to propose a measure which, although he thought it absolutely necessary, was one that bore a harsh and coercive character. It was a bill that might probably be ultimately unavoidable, but he did not think that it was absolutely indispensable they should proceed with it during the present session. He hoped the assembly of Lower Canada would be induced to consider seriously the resolutions that had been passed by both houses of parliament, and thence be led to see that the claims they had put forward were incompatible with the relations between the colony and the mother country. At the same time he desired it to be understood, that he was conceding nothing to the Canadians as to their propositions for organic changes ; and he trusted that other views would animate the assembly at their next sitting. But the bill being abandoned for the present, it would be necessary to have a vote of credit for paying the

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\* The reply of Mr. Papineau deserves to be recorded. On the 12th of August the civil secretary, Mr. Walcott, drew his attention to the report in the *Vindicator* of the 16th of May, of a meeting at Saint Laurent, in which Mr. Papineau had taken part, and asked if he had any explanation to offer. Mr. Papineau's reply was as follows : " Sir, the pretension of the governor to interrogate me respecting my conduct at St. Laurent on the 15th of May last is an impertinence which I repel with contempt and silence.

" I, however, take the pen merely to tell the governor that it is false that any of the resolutions adopted at the meeting of the county of Montreal, held at St. Laurent on the 15th May last, recommend a violation of the laws, as in his ignorance he may believe, or as he at least asserts.

" Your obedient servant,

" L. J. PAPINEAU."

judges and other officers in the colony, to be repaid out of the chest of the treasury in Lower Canada, should the house of assembly not vote the sum itself.

In accordance with his instructions, lord Gosford, on the 8th of July issued a proclamation calling parliament together on the 18th of August. As suggested by the resolutions passed at the meeting at Saint Ours, but few French Canadians were dressed in broadcloth, generally they wore the grey *étouffe du pays*. Some went to the length of donning a *habitant* straw hat and beef moccasins. Dr. O'Callaghan was conspicuous by his *outré* appearance. Many French Canadians to this day are particular in their dress. Such as these could not quite submit to accept the grey coat; so they clung in this respect to the old toilet to which they were accustomed. Among these were Beau Viger and Mr. Lafontaine, both of whom were always presentable. If the movement was intended to impress the British population with awe, it had the contrary effect. It simply made people laugh.

The governor-general explained, that it was by the royal command he had called the house together at that unusual period. He alluded to the accession of the queen, and laid before the house the resolutions voted by the imperial parliament. He added that the queen's ministers had determined not to submit to the present parliament the bills founded on the resolutions; but they had resolved to propose to the house of commons a vote of credit as a loan to the province, in order to pay the arrears due to the public servants. In submitting the accounts, lord Gosford added the anxious hope that he would not be compelled to exercise the power with which the imperial government would invest him. The chief object of calling the members together was to afford an opportunity of granting the requisite supplies and rendering unnecessary the application of the resolutions. He desired to express the earnest wish of the government to co-operate in the removal of every obstacle to the beneficial working of the constitution. The measures for the improvement of the executive and legislative councils had been

delayed by the late king's death. They had been only suspended, not forsaken. Owing to the distress which had arisen in several parts of the province, and to avoid the contingency of famine, he had assumed the responsibility of advancing £5,000 from the public chest, which he trusted to the liberality of the house to make good.

The long reply to the address dwelt on the fact that the failure to grant the reforms asked had destroyed all confidence in the imperial government. A protest was made against the report of the commissioners, with the affirmation that their duty as members of the house imperiously required them to follow the course adopted in the address of the 13th of September, 1836. The request was added that the resolutions of the two houses of parliament should be rescinded.

The address, having been presented to lord Gosford, was personally acknowledged by him. He regretted that the house persisted in the determination to deprive the country of the benefit of domestic legislation until the demands they had made should have been granted.

The same day, the 26th of August, the parliament was dissolved by proclamation officially communicated to the speaker.

It was the last act in the legislature of Lower Canada. Forty years later the house of assembly was re-established as that of the province of Quebec.

One of the ceremonies necessary to be enforced on the demise of the sovereign is the renewal of the oath of allegiance to his successor. Previous to the commencement of the session the members were called upon to comply with the rule. Many of the extreme members spoke of it as an idle and unnecessary farce that ought not to be enforced. Seeing, however, that the obligation would not be dispensed with, the oath was taken with unconcealed reluctance. Mr. Papineau did not disguise his own repugnance, and his advanced followers most emphatically shewed their unwilling observance of the duty, for such it was held to be, and was demanded from them.

Throughout the province a *Te Deum* was chanted in all the Roman Catholic churches, dictated by the religious sentiment incident to the accession of the queen. It was not heard with universal acceptance in the district of Montreal; in the parishes at Pointe-aux-Trembles, Saint Isidore and Vaudreuil it had been received with displeasure. The papers that sustained the majority gave this disgraceful conduct their support; they declared that chanting the *Te Deum* in thanks for the queen's accession, and offering up prayers for her health, safety and well-being was turning the churches into a political instrument of the government. The clergy, however, were not deterred from the performance of their duty. With such rare exceptions as scarcely to call for notice, they correctly estimated the mischievous consequences which must inevitably result from the prevalent tumultuous agitation.

In the country to the north and north-west of Montreal public affairs were assuming a dangerous character. Bodies of armed men from Grand Brulé had entered Saint Eustache, and their violence had driven from the village those who were known to entertain loyal opinions. On the Côte Saint Joseph in the neighbourhood, the Scotch settlers had fled in terror of their lives, leaving their property to its fate. Armed bands were parading the concessions, threatening all known to hold loyalist opinions. Some of the houses were broken into and robbed, while the men proceeding to work for a proprietor of some means were driven away from the ground by threats of violence. The same treatment was observed in the Grand Brulé with regard to all considered to support the government.

One of the means of opposition to the government was the attempt to make the law courts unnecessary, by superseding them by local tribunals created by the people, to which all matters of dispute between the *habitants* should be referred. The decision so given, it was understood, was to be final and binding. The title given to these elected judges was *juges de paix aimables compositeurs*.

The adjoining county in Upper Canada, to the west of the

lower province, Glengarry, had been settled by loyal Scotch Highlanders, who had been stirred to the heart's core by the pretensions of the French Canadian majority to establish themselves in irresponsible power. It was plain to them that the assembly and elective council similarly constituted would render the British population so powerless, that they would have been without political recognition. A public meeting was held, in which the Glengarry Highlanders expressed themselves very plainly on the crisis in a series of resolutions, which may be briefly set forth: "that every effort on their part be used at all times and under all circumstances to discountenance all seditious and treasonable practices and to put down any attempt at revolution when the same may originate." The address expressed, on the part of the loyal inhabitants of the county, "their utter disgust at the insolent disregard of the respect due to his station exhibited towards the earl of Gosford . . . especially by the speaker of the house of assembly, from whose high station a more discreet and decent line of conduct might be expected." An address based on these resolutions was sent to the lieutenant-governor of Upper Canada.

The constitutional association on the 4th of September issued an address dwelling on the dangers of the situation. Few addresses were ever written at Montreal with greater moderation and ability. It was signed by the hon. Peter McGill as president, and Mr. Badgley as secretary. It began with an appeal to the imperial government for the only remedy that it was believed would be found effectual for the welfare of the province, or for the removal of political strife. The proceedings of the house of assembly had been a virtual annihilation of the constitution, and its effect would be to deprive the province of its representative government, which the British had been taught to admire and cherish as their inherent birthright.

The attention of the imperial government was directed to the forbearance with which the constitutionalists had supported their unmerited grievances; to the obedience with



which they had submitted to the authorities ; to their attachment to the constitution ; to the solicitude with which they had regarded the connection with the mother country ; to the loyalty they had manifested to their sovereign ; to the love they had invariably entertained for the parent state.

These powerful claims had failed to obtain for them any share of that confidence which had so long and so fruitlessly been given to the party opposed to the king's government ; but they had constantly looked forward to the time when their patient reliance on the justice of the imperial government would be appreciated. They believed that period so long and so eagerly desired had now arrived.

They conceived that the legislative union of Upper and Lower Canada would prevent the necessity of severity, and effect an adjustment satisfactory to all parties. The union would demand some effective change in the house of assembly, by which a fair share of representation would be afforded to the British inhabitants of Lower Canada.

The address entered into an elaborate analysis of the population of Lower Canada, conceiving the total to be 600,000. It estimated the French Canadians at 390,000, and the British 210,000, viz., 13 to 7. The Irish were of course included with the British. It was represented that although the two provinces were unequal in population, that of Upper Canada being numerically less than that of the lower province, in justice to the British population the representation of each province in the legislature should be equal.\*

At this date was formed in Montreal the society of "*Les fils de Liberté*." A manifesto was issued setting forth the causes of the organization written in imitation of the declaration of independence of 1776. The members were to assemble as a military corps with arms for the purpose of being drilled, as if under sanction of the government. The organization was held necessary as an answer to the proclamation of the governor. On the 5th of September,

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\* The address is given in full in the *Montreal Gazette* of the 9th of September, 1837.

a meeting had been held in which Dr. Robert Nelson had taken a conspicuous part. A band of music was present to encourage the general enthusiasm. The organization was completed, officers appointed and the motto "*En avant*" (Forward) chosen. On the 1st of October a manifesto was published, to which were attached the names of forty young men without weight and of no station. It amounted to the declaration of the Canadian republic written in the style of inflation and folly, characteristic of those days. Some paragraphs of this high-sounding paper ran :

"The authority of a parent state over a colony can exist during the pleasure of the colonists ; for the country being established and settled by them, belongs to them by right, and may be separated from all *foreign* connection whenever the inconveniences resulting from an executive power residing abroad, ceasing to harmonize with a local legislature, makes such a step necessary to the inhabitants for the pursuit of happiness." Again : "A separation has commenced between parties which will never be cemented, but which will go on increasing until one of those sudden, those unforeseen events that attend the march of time, affords us a fit opportunity for assuming our rank among the independent sovereignties of America. Two splendid opportunities have been lost. Let us not be unprepared for the third. A glorious destiny awaits the young men of these colonies. Our fathers have passed a life of vexation in daily struggles against every degree of despotism. As they pass from the world they leave an inheritance improved by their patriotic sacrifices. To us they commit the noble duty of carrying onward their proud designs, which in our day must emancipate our beloved country from all human authority except that of the bold democracy residing within its bosom."

The agitation now became active throughout the province in its efforts to awaken the population to resistance. The public assemblies, as has been said, were termed "anti-coercion meetings." As was remarked at the time, there had been no coercion except on the part of the house of

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DRILL IN THE PARISHES.

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assembly, and it had brought distress and suffering on the country by its persevering attempts to change the constitution. Few believed that the assembly would be able to effect any of the reforms it was parading. It was now so recognised by the British population, determined to defend to the last the connection with the parent state, and that it was from the home government the true reforms were to be attained.

The resolution was also adopted that the supporters of the assembly who had begun to drill should form themselves in each parish into volunteer companies of militia, under the command of elected officers, and be drilled. The returns of these corps were to be sent to the permanent committee, which would undertake that arms and accoutrements would be sent to them. Further, it was resolved that the officers of militia, who had been, or might be, dismissed for their patriotism, were to be re-elected.

It was understood by those in authority that amid the noise and bluster there was much that was insincere, much that is known by the popular word of "bluff." The desire was to follow Mr. Roebuck's advice to continue the agitation, so as to obtain a recognition of the demands of the assembly, and, so far as he was concerned, a continuance of the annual stipend he was receiving. His power of being mischievous, however, had been somewhat curtailed, for at the election of 1837 he had been defeated for Bath, and now could no longer continue his misrepresentation in the house of commons. Nevertheless, although with those responsible for the conduct of events, the belief was entertained that there was no intention to make any armed demonstration, it was felt that the materials for a conflagration of dangerous magnitude had been gathered; and that the flame might burst forth when chance and circumstance would ignite the torch of discord at a time least looked for.

Lord Gosford on the 2nd of September had written to the colonial minister that all hopes of conciliation proving effectual to lead to a happier state of feeling had passed

away. It is evident, he said, that the Papineau faction is not to be satisfied with any concession that does not place its abettors in a more favourable position to carry into effect their ulterior objects, namely, the separation of this country from England, and the establishment of a republican form of government. Mr. Papineau has gone such lengths that he must now persevere in the course he has taken or submit to a defeat which would annihilate all his power and influence. The plan he pursues clearly shews he is determined to do all in his power to obtain his ends. "Mr. Papineau," continued lord Gosford, "has emissaries in various directions, and though I do not conceive there is any ground for alarm, still great caution and vigilance are required to guard against the evils that might follow from the attempts making to excite discontents among the people by the most abominable misrepresentations. The executive requires more power, and under my present impression I am disposed to think that you may be under the necessity of suspending the constitution. It is with feelings of deep regret I state this, but duty compels me to communicate it to you."

There is a remarkable letter from sir John Colborne of the 6th of October, which shews the condition of Canada at this date. In order to be near the scene of any active movements, sir John had moved from his headquarters at Quebec to Sorel. He had no fear of any immediate outbreak, but was not so assured against eventual difficulty. He wrote :

"I beg to thank your lordship for your letter of the 5th ultimo. It appears absurd to attach an importance and influence to tactics of the factious party in this Province beyond their actual progress; and the results of their unchecked movements and language, while the great mass of the Canadian peasantry cannot be excited or induced to take an active part with the persons who are now sounding the alarm; but no doubt should be entertained that the system of agitation carrying on by the faction, although chiefly intended to intimidate the Home Government under present circumstances, and to demonstrate that the country is bordering on a state of revolt, must tend to promote effectually the avowed object of Mr. Papineau.

"In my correspondence with Col. Eden I have had occasion to refer to the facts and reports that establish the decided character which the agitators have lately assumed. The people have elected the dismissed officers of the militia to command them. At St. Ours a pole has been erected in favour of a dismissed

captain with this description on it, 'Elu par le peuple.' At St. Hyacinthe the tri-coloured flag was displayed for several days. Two families have quitted that town in consequence of the annoyance they experienced from the patriots. Wolfred Nelson warned the patriots at a public meeting to be ready to arm. The tri-coloured flag is to be seen at two taverns between St. Denis and St. Charles. Many of the tavern keepers have discontinued their signs and submitted for them an eagle. The bank notes or promissory notes issued at Yamaska, have also the same emblem marked on them. Mr. Papineau was escorted from Yamaska to St. Denis by a numerous retinue, and it is said that 200 or 300 carriages accompanied him on his route. He has attended five public meetings lately; and at one of them, La Valtrie, a priest was insulted in his presence. The occurrence at St. Denis was certainly a political affair, a family at St. Antoine opposed to the proceedings of W. Nelson, having been annoyed by the same mob that destroyed the house of Madame St. Jacques a few hours before the shot was fired from her window.

"The game which Mr. Papineau is playing cannot be mistaken, and we must be prepared to expect that if 400 or 500 persons be allowed to parade the streets of Montreal at night, singing revolutionary songs, the excited parties will come in collision."

The tone of this letter suggests the general feeling of the British inhabitants, consequently the offer of a formation of a royalist rifle corps was again made to the governor-general. On the 7th of October it was again declined with courtesy and expressions of satisfaction at the offer, but leaving to those who had made it "to supply by their good sense and reflection, reasons of sufficient weight for concurrence in the soundness of the conclusion."

The truth is that lord Gosford was utterly without statesmanlike ability. He felt that he had failed in the policy he was present to carry out, and there is nothing to suggest that he possessed the moral fibre which can stand the strain of trying events. He could moreover count little on the colonial secretary, the weak *doctrinaire*, lord Glenelg, whose want of determination in meeting the emergency had paralysed the whole of Canada. Had the governor-general with ordinary courage shewed the firm determination to maintain the constitution, and to put a stop to the agitation, meeting force by force, the possibility is that there would have been no insurrection. When matters came to a crisis, it is a matter of astonishment how feebly the outbreak collapsed. The number of the French Canadians who took no part really constituted



the majority, certainly in status and character. The insurrection was confined to the few counties bordering on the Richelieu, and to the county of the Two Mountains, north of Montreal, and the leaders appear to have been impelled to active hostility by the feeling that the British authorities would not act, and were prepared to let Canada go rather than engage in any conflict to sustain their authority. Some writers have drawn a fanciful picture of what a republic of French Canadian catholic nationality might have been, for it would have possessed the command of the two sea-ports of the Saint Lawrence, Quebec and Montreal. It seems difficult to suppose that any person with ordinary sanity is ready to admit that Upper Canada would have consented to an apportionment of territory excluding them from a sea-port. The feeling had already been entertained that the island of Montreal should be united to Upper Canada, and if Great Britain had withdrawn from the provinces, Upper Canada would have demanded the cession of the island of Montreal, and if it had been refused, would have proceeded to take possession of it by force; an attempt to have ended in success, for it would have had the support of the city population.

The eastern townships would never have submitted to a French Canadian *nationalité*. They would have joined the kindred people in the United States. To the east, Gaspé would have joined New Brunswick, and thus the central part of Lower Canada alone would have submitted to the claims that were being advanced.

Indeed, as we consider these chances of the future it is a matter of surprise that they were so ill understood and so little considered. The power of Mr. Papineau is simply unintelligible in modern political life. His views centred in himself alone. Nevertheless, he possessed an influence over his countrymen which has never been equalled, and never can be repeated. The language of himself and his supporters was one of unvarying complaint. He had no remedy for the "grievances" on which he declaimed except the elective legislative council. It may be said there is not a single

political document of importance in which this pretension is not ostentatiously advanced. His influence on Canada had been simply disastrous. By his effort the civil servants remained unpaid and the business of the province had been paralysed. Political feeling had so poisoned society that it had spread a moral taint in all directions. Juries were actuated by it in face of the clearest evidence. The bar was divided into classes by political sentiment. The very bench had become degenerate with its influence. It will be seen how crime, established by the plainest evidence, remained unpunished ; and the weak, faltering hand of the executive continued to be held back at the time, when if put forth in earnest courage and vigour, society might have been redeemed.

The one feeling that rose equal to the occasion was displayed by the British and Irish population. Coming events were casting their shadows before, and none could foretell when these men would have to prove their manhood. They felt that they could rely on the aid of the countrymen in the neighbouring provinces. Men born in the United States, or of United States origin, living in Canada shewed the side they would take. They held a public meeting in Montreal and issued a manifesto signed by all of this class, pledging themselves to range themselves with the British when the hour of trial came. To all it was plain that the hour was approaching, when men had to stand by their allegiance to the British empire if necessary to the death.

They looked forward to the crisis with the calm determination of meeting it as the emergency would demand. To their mind it was a struggle for the maintenance of law and order, for peace and national self-assertion. The feeling was strong that come the struggle must, and there was a powerful conviction that the sooner it came the better.

There was a class of French Canadians equally determined to push matters to a conclusion. They were not numerous, and they had been taught to judge the situation as the leaders had declared it to be. They were told that their

*nationalite* was imperilled, that unless they maintained their rights by force, they were destined to become hewers of wood and drawers of water to the dominating, persecuting British. Those who accepted these views went into the field risking all they possessed, determined to fight manfully to the last. They felt confident of the predicted success. They conceived that their overpowering numbers, which they judged by the population in the parishes and the small towns, and by the assertions of their leaders, would make resistance impossible, and that they had only to act as men, to become what they aspired to be, the rulers of a French Canadian republic.

Matters were rapidly coming to a head. On the 23rd of October a meeting took place at Saint Charles on the Riche-lieu. It affected to represent the confederacy of the six counties bordering on the river. It was claimed that 5,000 were present. The chair was taken by Dr. Wolfred Nelson. Mr. Papineau, with other members of the house, attended. Before the meeting assembled the several delegates had met and prepared the 13 resolutions to be brought before the meeting. Previous to the submission of the resolutions, Dr. Côté, one of the members of the county of L'Acadie, had arrived with a delegation, and made a demand to be admitted into the union. The request was granted. It was resolved that the counties of Laprairie and Missisquoi might also enter the confederation. A company of armed men under the command of militia officers, one of whom was one Jalbert, subsequently tried for the murder of lieutenant Weir, was on the ground. The men went through their manœuvres and saluted every resolution with a volley. The day was very fine, and there was no want of flags bearing inscriptions, which the contingents from the several parishes brought with them.

Some of the inscriptions have been preserved, such as : "Fly, Gosford, persecutor of Canadians!" "Long live Papineau and the elective system!" "Honour to those who sent back their commissions and who have been dismissed from office ; infamy to their successors!" "Our friends in

Upper Canada ; our union is strong ! ” “ Honoured be the brave Canadians of 1813 ; the country still expects succour at their hands ! ” “ Gosford, when wilt thou depart, robber of the public purse ? ” “ Independence, lord of the eagle-heart and lion-eye ! ” “ The Canadians know how to die, but not to surrender ! ” A death’s head and cross-bones, with the words “ Legislative Council. ” “ Papineau and the majority of the house of assembly ! ” “ Gosford, the people want nothing to do with you, I tell you ! ” “ An elective council, a *sine quâ non* of liberty, I will conquer or die for her ! ” “ Down with Debartzch ! ” “ The curses of the unborn will overtake Russell ! ” \*

A wooden pillar with a cap of liberty was erected : it bore the inscription in French that it was dedicated to Papineau by his grateful brother patriots of 1837. At the conclusion of the meeting, Papineau was led up to the column, and an address was delivered to him : after which all present marched past, singing the popular airs then in vogue, each one, placing his hand on the column, swore that he would be faithful to the cause of his country and conquer or die for her.

The resolutions, as usual, were of great length. Following the example of the “ Wise men and heroes of 1776,” it was declared that all men were created equal ; and that it was the right of a people to abolish a government that became destructive of the ends for which it was instituted, the protection and security of the people.

That the authority of Great Britain could continue only by good-will, and could not rest on brute force, the people possessing the right to demand such changes as their well-being rendered necessary.

That the late dismissals by the governor-general had removed men who had performed their duties with integrity, and, what had caused unusual contempt, they had been replaced by servile instruments of his violent policy.

That the six counties were invited to elect “ pacificators,”

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\* [Montreal Gazette, Tuesday, 31st October, 1837.]

justices of the peace and officers of militia to be provisionally obeyed.

That they will refuse obedience to and systematically oppose such officers as may be named by lord Gosford.

That they did not expect to be deprived of the benefits of a local legislature.

That the legislative council be improved to secure its co-operation with the representative branch of the legislature.

That a number of persons had been lately appointed who had rendered themselves odious to the country.

That the nominations to the executive council were the more scandalous, as they contained pluralities of office.

That the nominations were but the continuation of the old system of fraud and deception, a perpetuation of the grievances complained of.

That it was useless to recapitulate these grievances which had been during so long a series of years the cause of complaint.

That in place of redressing these grievances, the imperial parliament had threatened and intended to annihilate the fundamental rights of the colony. The governor-in-chief has recently introduced in time of profound peace a large body of armed troops, to destroy by physical force all constitutional resistance, and to complete by desolation and death the work of tyranny already determined upon and authorised beyond the seas.

The resolution that followed is so astounding that it must be copied in full: "That holding lord Gosford guilty of so atrocious aggression against our liberties by the introduction of such armed force against us, and counting on the sympathy of our neighbours, the zealous co-operation of our Brother Reformers of Upper Canada, and on Providence, for a favourable opportunity of emancipating ourselves from the oppressive system under which we suffer, we declare that commiserating the unhappy lot of the soldiers whom our enemies desire to convert into the vile instruments of our slavery, and their own dishonour, the people of these counties



will throw no obstacle in the way of the men belonging to the regiments stationed in this district, should they desire to improve their condition by emigrating to the neighbouring Republic, especially as we have strong reasons to believe that a number of those soldiers are only waiting for an opportunity to get rid of their present anomalous and irksome profession."

The organization of the "*Fils de liberté*" of Montreal was approved, and the country parishes were invited to follow the example.

The allusion to the introduction of the armed force was the arrival at Quebec from Halifax, on the 13th of July, of the 83rd regiment under lieutenant-colonel Dundas. The *Vindicator* had announced the fact with the intimation, that when the contest came the "patriots" would drive the regiment into the Saint Lawrence: language that it is not usual for British regiments to hear unmoved.

This meeting of the 23rd of October, in the cities of Quebec and Montreal, created the strong impression that matters had now reached a crisis. Even lord Gosford, whose weakness had amounted almost to imbecility in permitting the faction which held the majority in the assembly to set the government at defiance, and indulge in insolence towards himself, was stirred by the news. The law in many parts of the country had become of no effect. Those who were ill treated for their loyalty dared not complain to a magistrate, and if the complaint were made, even if the magistrate were inclined to act, he dared not. There had been no attempt to sustain any official so acting. There had been a repetition of weak compliance with unwarrantable demands, and an acceptance of insolence, the more unpardonable because it proceeded from men who, when the hour of reprisal came, shewed that they could so easily be silenced.

The character of the resolutions establishes how little true ground of complaint presented itself to justify the revolt that followed. When a body of men for their own safety invite soldiers to desert and promise them their aid, they have sunk

low in the scale of honour and truth. It is a degradation to which no honest mind would descend under any circumstances. What is, moreover, the spirit of the resolutions? The one grievance, the legislative council, came to the front, tangible, in the sense that the demand to render it elective was positive. There was a total silence on the main point of the dispute: the refusal of the assembly to accept the control of the casual and territorial revenue on the condition of voting a civil list, not for imperial purposes, but for the protection of the civil servants and the administration of justice. For four years the stipends of these men had been withheld, in order that Mr. Papineau could urge on his schemes of agitation. Had he succeeded, it would have ended in anarchy, ruin and civil war. But his attempt failed, not from outward pressure, but from the want of support it received within the province. It is now my duty to enter upon the unhappy events which followed, and their immediate collapse, for the insurrection of 1837 lasted from the 25th of November to the 14th of December, 22 days. The attempt of 1838 was a matter of even less time; indeed, a more contemptible fiasco was scarcely possible.

## CHAPTER II.

On the same day that the meeting at Saint Charles was taking place, a large assembly of the British party determined on supporting the connection with Great Britain was held at Montreal. Hon. Peter McGill, of the legislative council, was in the chair ; 7,000 persons attended. Resolutions were passed claiming that adequate means should be taken to anticipate the crimes with which all social life was threatened ; that the government was being brought into contempt ; and that the effort was being made to destroy the connection between the parent state and the government ; that the prerogative of the crown had been perverted by the appointment to office of the advocates of sedition ; and that the excited state of public feeling had been promoted and encouraged by injudicious and ineffectual attempts at conciliation. The determination was formed that the loyal community should be organised into committees in the several wards, to concert a general system of measures in case of disturbance. The meeting was persuaded that there was no substantial cause for apprehension of a successful rebellion "by the mass of our fellow-citizens of French Canadian origin," though the utmost activity and perseverance were being employed to create disorder and sedition. To guard against this perilous influence it was the duty of all good subjects to organise, in order to maintain connection with the British empire. A declaration was made against enacting the legislative council to be elective ; claims were advanced for the abolition of the feudal tenure, and for the establishment of an efficient registration.

A vote was passed in which the Irish expressed their unqualified abhorrence of the low and base attempts to draw them over to the revolutionary party ; and they

expressed their readiness, should it be necessary, to repel by force those whose actions betokened them to be enemies of themselves and their countrymen in general.

On the 24th of October, Monseigneur Lartigue, the Roman catholic bishop of Montreal, issued a *mandement* to be read in the church the first Sunday or *fête* day after it had been received. Written with great moderation, it condemned in unmistakable language the revolutionary proceedings of the leaders at the public meetings. It was addressed to the clergy and the faithful. The bishop affirmed that he was impelled to speak by no exterior influence, but was actuated solely by motives of conscience. The *mandement* took the religious view that revolt to the constituted authorities was against the doctrine of the church. No allusion was made to the points in dispute, nor was blame cast on any political party. "Should any one," wrote the bishop, "wish to engage you in a revolt against the established government under the pretext that you form a part of the sovereign people, suffer not yourselves to be seduced. . . . Who will dare to say the totality of citizens desires the overthrow of the government?" He called on the country seriously to reflect on the horrors of a civil war, "when the innocent and guilty were carried off on the same tide of calamity and woe, and because every revolution was the work of blood."

Some modern writers state that in some parishes, when the *mandement* was being read, parties rose and left the church. It does not appear, however, that there were many such demonstrations, nor are they clearly specified. A few days later, on Monday, the 6th of November, the riot took place in Montreal, which ended in the destruction of the office of the *Vindicator* on Saint Lambert hill, near Fortification lane, and the destruction of the type and plant. It grew out of a preceding dispute, and was not a deliberate and preconceived act. The journal had made itself obnoxious by the extreme violence of its advocacy of the cause of the revolutionary measures proposed, and by its unblushing misrepresentation

of fact. If anything had been needed to add to the feeling of bitterness against its proprietor, it had been the recommendation made at Saint Charles on the 23rd of October, when the British soldier had been called upon to desert his colours, and assistance had been promised him in the attempt.\*

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\* We are indebted to Mr. Christie, Vol. IV., p. 351, for the preservation of one of those elegant extracts which found place in the columns of this paper. As representative of the violence of the leaders of the movement of 1837, it may be considered a part of the history of the day. It appeared after Lord John's resolution had become known.

"It gives us great pleasure to announce that the feeling created throughout this wealthy and populous District, by Lord John Russell's infamous resolutions, is one of unmixed indignation. They are met everywhere with 'curses not loud but deep,' and a fixed, stubborn determination to resist any and every attempt to enslave the country.

"The reformers are already on the alert. Some preliminary meetings have, we understand, been held, preparatory to calling a meeting of the rich and independent County of Richelieu. To the freeholders of the county in which the Hon. Mr. Debartzch resides will belong the honor of being the first to denounce the honorable renegade and the machiavelian policy of the treacherous government.

"A movement in such a quarter is ominous for the treacherous administration of Lord Gosford. It will, we have no doubt, be followed throughout the Province by similar meetings, and before the summer will have gone over their heads, the people of Lower Canada will tell both their representatives and their rulers, that they are not the stuff from which slaves are made.

"It could not be otherwise. Those who have combated, and successfully combated, the attempts of Dalhousie to pay away their money without the authority of law; those who have, year after year, protested against the unconstitutional interference of the British Parliament in our internal affairs, will not allow it to go abroad to the world that their principles and protests are nothing better than waste paper. They will not permit it to be said that, at the beck of even a House of Commons, they now sanction what they have up to this day so doggedly, so repeatedly, so consistently, and so honorably resisted.

"A combined and dishonorable junction of Whigs and Tories in a House of Commons 'reformed' but in name, may pass Resolutions to annihilate the last remnant of Liberty left in Colonial Legislatures. A House of Lords, the fundamental principle of whose Constitution is inimical to human freedom, may endorse the determination of the combined enemies of freedom in the Lower House, but neither the Resolutions, their authors, nor their supporters can change the nature of things. Robbery will be robbery still.

"Russell may therefore order his Deputy, Gosford, to plunder our public chest. A second Falstaff, he may say to his worthy chum, 'Rob me the Exchequer, Hal!' and his Deputy and chum may rob it accordingly; but even this



There had been established at this date by the loyalists a political association known as the Doric club. The precise period of its organization cannot be positively stated, nor can the circumstances under which it was formed be related. It may, however, be traced to the refusal of lord Gosford to sanction the formation of a militia regiment. On whatever conditions it was called forth, at an early date it embraced in its ranks the youth and the manhood of the English and Irish population, determined to oppose the elective legislative council, as threatening to exclude them from all representation in the government. They were, moreover, bound together by the strong determination to defend to the last the connection of Canada with the parent state. It was more or less of a secret society, and little has been published concerning its character. At the time it greatly influenced public opinion, and was a powerful nucleus for holding together the supporters of the cause it was formed to sustain.

On Monday, the 6th of November, the "club" came into prominence. On the preceding Saturday a report had been spread that the "*Fils de liberté*" were about to assemble in great force on the Place d'Armes, and, after marching in procession through the city, there plant a tree of liberty. Accordingly a proclamation was issued calling upon all to refrain from joining such procession. Placards were distributed exhorting the loyal and constitutional wards to meet at Place d'Armes at 12 o'clock, to assist in crushing rebellion in the bud. At 2 o'clock it was known that a large number of the "*Fils de liberté*" had assembled in a yard which fronted on Saint James street. About 2 o'clock they

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will not legalize the plunder. Our rights must not be violated with impunity. A howl of indignation must be raised from one extremity of the Province to the other against the robbers and against all those who partake of the plunder.

"Henceforth there must be no peace in the province, no quarter for the plunderers. Agitate! Agitate!! Agitate!!! Destroy the Revenue; denounce the oppressors. Everything is lawful when the fundamental liberties are in danger. 'The guards die—they never surrender.'"

In spite of ourselves, the explanation given by Victor Hugo in the "*Misérables*" to these well known words must rise to the mind of every reader of this disgraceful tirade.

began to muster at Bonacina's tavern, at the corner of Saint James and McGill streets, opposite the American church, which then stood there. The assembly attracted some attention and parties hung about the corners to watch the proceedings. Suddenly, about 250 rushed from the yard with stones and sticks, and attacked those looking on. Pistols were fired off. Active in the crowd was Mr. T. Storrow Brown, who subsequently figured at Saint Charles. In the *mêlée* he was knocked down by a member of the Doric club. The great preponderance of numbers allowed the "*Fils de liberté*" to chase their opponents up Saint James street, breaking Dr. Robertson's windows as they passed. They proceeded along Saint James to Saint Francois Xavier street, whence they passed to Notre Dame street, where the Dorics made a stand. By this time the Doric club had assembled in force and there was a different story to tell. In the fight the "*Fils de liberté*" were chased up Saint Lawrence Main street to Dorchester, where there was a sharp struggle and the sons of liberty were dispersed.

In the afternoon the Riot Act was read, and the 1st Royals and the artillery, with some field-guns, marched through the streets. The regiments were headed by two French Canadian magistrates, Mr. Desrivières and Mr. John Donegani.

About six o'clock the loyalists marched to Bonsecours street. With difficulty they were restrained from attacking Mr. Papineau's house.

The *Vindicator* office fared differently. The place was attacked; there was no resistance. In a few minutes the type, paper and presses were thrown into the street, and the place was gutted. During the night pickets were placed at Saint Lawrence Main street, the Place d'Armes and in the Quebec suburbs; the main guard was also strengthened.

The Royal Montreal cavalry, during the night, patrolled the streets, and a body of the independent mechanics paraded through Griffintown, but there was no cause for any action on their part.

At this date sir John Colborne permanently established

himself at Montreal. He arrived from Sorel, where he had passed the latter part of the summer and autumn to be near any scene of tumult. He arrived on the 9th instant in the city, and it may be said that from this date he took a more controlling part in the direction of events. By the publication of the parliamentary papers, we now know that lord Gosford had asked to be relieved from his government. On the 14th of November he wrote, that finding the decisive measures he had recently submitted had become more necessary owing to the conduct of the disaffected, should it be determined to take a strong course of proceeding, the government "might feel desirous to entrust the execution of its plans to hands not pledged as mine are to a mild and conciliatory line of policy." He had already written on the subject and had recommended that a new line of action should be confided to one who could "enter" upon the task free to act. He had continued at his post solely from public duty. As he had written, his private wish was to return home. It may be presumed that sir John Colborne was cognisant of this proceeding, for after his arrival in Montreal both energy and determination were shewn by the executive.

It was time that the supineness of the executive should cease if Canada was to remain a British province. Throughout the district of Montreal there was a series of outrages on the British residents living in the country parishes, and on those French Canadians who were known opponents of Mr. Papineau's policy. Many were obliged to abandon their homes and seek refuge in Montreal. Several magistrates, militia officers, and commissioners to try the small cases in the rural parishes, were, by repeated threats, forced to send in their resignation. They could no longer hold their offices with safety, and they were unable to exercise the duties entrusted to them. The organization into military companies for exercise under arms was openly carried on, avowedly in anticipation of an approaching and speedy contest. No support was given to the magistrates, and any

attempt on their part to execute their duty would have been visited on their person and property.

An example of these proceedings may be mentioned as having taken place at Saint Césaire, a parish on the Yamaska. The magistrate, Mr. Chaffers, who refused all compromise, was told that if he took his seat he would be dragged from the bench. He, therefore, declared that he would not expose the royal authority to contempt by giving judgments which no bailiff dared carry into execution. On this fact becoming known, the principal inhabitants having full confidence in his ability, honour, and strict spirit of justice, waited on him, begging him not to close his court, and pledging the parish to sustain him in the performance of the duty. Those, however, who were opposed to law and order were the strongest party. They declared that no court should be held, or any warrant executed. Mr. Chaffers consequently declared the court closed until his majesty's government should re-open it. He was also called upon to resign his commission, a demand he spurned with indignation.

It was soon seen in Montreal that the presence of sir John Colborne was not a mere change of residence. On the 16th of the month, a week after he arrived, a militia general order was issued. It set forth, that it was notorious that many well disposed officers had been constrained by intimidation to send in resignations of their commissions. As no officer can be absolved from his duties until efficiently relieved, his excellency had ordered that all resignations thus illegally extorted should be null and void ; that such officers should be considered as still holding their commissions ; and that reliance would continue to be placed on their fidelity and attachment to the queen in the discharge of their duties.

The attack on Dr. Quesnel in the county of L'Acadie, under the auspices of one Dr. Côté, of Napierville, who subsequently obtained some hours' notoriety in 1838, was particularly disgraceful. With a party Côté called on Quesnel, who was a magistrate, requesting his resignation. The doctor, a French Canadian of the old school, received his visitors with courtesy,

and even offered them some refreshment, giving the reply that the matter required consideration. Côté answered that there was no time for any such tergiversation. Quesnel must comply, or his house would be attacked. Several of the neighbours advised compliance, to prevent serious injury to himself and his property. The doctor, however, still refused ; and at night he was visited by a mob, who forced open the door and broke the window sashes. In consideration of the terror of his wife and children and having no hope of help, he finally consented to satisfy the crowd of ruffians who were assailing him. Next morning the party proceeded to the post-office, and having heard that there was no letter to the governor-general, the mob returned to the house, and from its violent persistence, the doctor was compelled to give an unsealed letter to the governor-general announcing his resignation. Placing his family in safety, he proceeded to Montreal and claimed protection from the government. A warrant was issued for the arrest of Côté, but before it could be executed the leading insurgents throughout the province had taken to flight owing to the defeat at Saint Charles. A boast was made that 66 magistrates and officers of militia had resigned in the county ; but there was no narrative of the ruffianly pressure to which many had been subjected.

News came from Saint John's which had the effect of precipitating the insurrection. One Demaray, the postmaster, had called with a Dr. Davignon at the house of Mr. Macrae to demand the resignation of his commission as magistrate. They were received by Mrs. Macrae, who informed them that her husband was away. He did not, however, accede to the request. Their next visit was to Mrs. Lindsay, who simply said that her husband was absent. They afterwards visited Mr. Pierce and Mr. L. Marchand and insisted on their resignation. Utterly without support, and intimidated by violent threats, they finally consented.

At Saint John's, leading to Saint Athanase on the southern shore a bridge had been constructed, over which toll was collected under the authority of the act of the provisional



legislature. One of the first steps of the agitators was to order the discontinuance of the payment of toll. The toll-man was ordered to leave his post, and the *habitants* were informed that its payment should no longer be exacted. Colonel Jones, the proprietor, appointed one of his servants to collect his dues. Many refused to pay, and there was no redress. The news created a sensation in Montreal, and it was suggested that a strong party of troops should be stationed at Saint John's. The papers in alluding to this necessity remarked "that, could Mr. Papineau succeed in breaking up every regiment into detachments before winter, he might be said to have a chance in favour of his promised county revolts." It is a matter of modern assertion that Mr. Papineau never desired to resort to an armed resistance: such a declaration is still made by those who defend his memory. Every circumstance previous to the outbreak is at variance with this theory. It was doubtless a convenient explanation of his want of courage. There were many occasions when he could have placed on record this opinion, if he really entertained it. He had been present at Saint Charles, when those who attended the meeting marched by the column dedicated to him, swearing to "conquer or die." If nothing was meant by the ceremony, it was the mere pantomime of children. He was present previous to Nelson's defence of Madame St. Germain's house at Saint Denis, and he could have insisted on a discontinuance of resistance and a submission to authority, but he left Nelson to fight, while he drove off to Saint Hyacinthe. The explanation cannot be given that Mr. Papineau's power was lessened, for to the last his influence was without limit. The only view that can be accepted, is that he believed that the government dared not lay a hand on him, or his acolytes; that its spirit of conciliation was unfathomable. The advice of his friend, Mr. Roebuck, who was supposed to know the temper of the house of commons, was to persevere in his demands, and he seems to have believed that there was no limit to be imposed on his mischievous agitation, and that whatever form it took, the

authorities were so fettered by instructions they dared not act. If such was his dream, he was soon awakened from it.

The districts of Quebec and Three Rivers did not shew the same vehemence of proceeding as that of Montreal, but much excitement was continued in the parishes, and the agitation remained unrelaxed. No one seemed precisely to consider whither matters were leading; there was, however, the general belief that the government would not dare to intervene, and that the governor-general was bound by his instructions to allow these exhibitions of political feeling to be carried to an extreme length without any attempt at repression. On the other hand, the influence of sir John Colborne was felt throughout the province, and there was the common sentiment, that the fatuous *laissez aller* of lord Gosford was no longer to paralyse authority. The government received full information of all that was happening, and those prominent in disaffection were well known. On the 11th of November warrants for the arrest of several of the leaders were issued. The act caused equal surprise and terror, for it was unlooked for. Several managed to effect their escape, some three or four were lodged in jail. They were kept in prison for a few days and were then liberated on bail. It was a lesson to those engaged in this perilous self-assertion which should have told its story.

Proclamations were issued on the 4th of November at Quebec, and on the 12th at Montreal against meetings for military drill. All public assemblies and processions were forbidden. Volunteer corps of riflemen, artillery and cavalry were now raised, under the authority of the government. A new commission of the peace was issued for the district of Montreal. All who had been active in the agitation, and had shewn by their indifference that they could not be relied on, were excluded from the list. They were 61 in number.

There were few troops in Canada excepting the force maintained to garrison Quebec. The remainder were concentrated at Montreal. Sir Francis Bond Head, then lieutenant-governor of Upper Canada, had despatched from

that province the 24th regiment to meet the emergency in Lower Canada. Addresses were forwarded from Glengarry, Kingston and parts of Upper Canada, assuring the governor-general of the readiness of the population to march to Lower Canada, should their services be required. The city of Toronto voted an address to the lieutenant-governor, accepting the trust for the defence of the city.

Among those who at this date incurred the enmity of the agitators was Mr. Debartzch, of Saint Charles. From his wealth and position he had been much courted by Papineau, and he had taken part in many of the extreme measures, both as a member of parliament and as a legislative councillor. A paper, the *Echo du Pays*, which had violently opposed the government, had appeared at Saint Charles, and had been principally subsidised by him. The form which the movement was now taking awoke all his apprehensions as being most destructive to the interests of the country. He had been the advocate of the agitation which he and those who thought with him had considered to be constitutional. The threat of insurrection so boldly uttered caused him great alarm, and he strenuously exerted himself to calm the public feeling that he had aided so passionately to excite. This conduct brought upon him the indignation of the leaders of the movement on the Richelieu. He was regarded by them as an apostate and traitor. They determined, therefore, to seize him, and hold him as a hostage for the safety of those who might fall into the power of the law. Notice was given to Mr. Debartzch of this design. He contrived to elude the attempt, and effected his escape to Montreal, and was enabled the following day to send a steamboat to remove his family. Mr. Debartzch's daughters are mentioned as shewing great courage on the occasion. They, however, only escaped with their lives.

There was to be a cessation of the imbecile policy of the government, allowing these insurrectionary measures to proceed unchecked. On the 16th warrants were issued for the arrest of Mr. Papineau, Dr. O'Callaghan, Mr. T. S.

Brown, and for the accredited leaders of the "*Fils de liberté*." Some of them were lodged in jail. The principal leaders, however, escaped from the city.

On the same evening a party of the Montreal cavalry, 18 in number, under lieutenant Ermatinger, accompanied by a constable, was sent to Saint John's to arrest the postmaster, Demaray, and Dr. Davignon, with an inhabitant of Saint Athanase, these three having been the most active in the attempt to obtain the resignation of the government officials. The arrest of Demaray and Davignon was effected, but an order had been given not to cross the bridge, so the resident at Saint Athanase escaped. They left Saint John's on the 18th of November, at three o'clock in the early morning. The prisoners were placed handcuffed in a waggon with the Montreal constable, Malo. The route followed was through Chambly to Longueuil, a distance of 28 miles. Not far from Chambly they came upon an armed party of about 20, but as the escort approached, those who formed it separated. As they came near Longueuil, they were informed by a woman who met them that a party was lying in wait to attack them. They, however, continued to move forward. When about a league from Longueuil they came opposite a board fence to find themselves in the presence of a body of men, numbering between two and three hundred, armed with rifles and fowling pieces. As the party came up they were received with a heavy fire. Lieutenant Ermatinger was wounded with duck shot in the face and shoulder. Three of the troopers were wounded ; one, Woodhouse, severely ; while young Mr. John Molson, who belonged to the troop, had a narrow escape, the bullet passing through his cap and grazing his head. Several of the horses were hit. The cavalry discharged their pistols, they were without carabines, and went about in retreat. In the attempt the waggon was upset, one of the horses being wounded. The prisoners thus obtained their liberty while the dragoons made their way across the fields to Longueuil. There they found two companies of the 32nd, sent from Montreal in support, under

major Reid, who understood his orders were not to proceed beyond Longueuil. The release of the prisoners having been effected, those engaged in the attack separated. It had been organised by Mr. Bonaventure Viger, assisted by Dr. Kimber, of Chambly, and Mr. Vincent, of Longueuil.

This successful resistance to the arrest may be considered as the commencement of the insurrection. Naturally there was much exaggeration in the account of the event, and it was accepted by many of the French Canadians as a mark of their prowess in the field, and inspired them with confidence and determination to proceed in the struggle. The whole policy of the government had been so weak and vacillating, that it justified any contemptuous opinion of its character and resolution. A few hours, however, were to shew the value of this opinion.

It is stated that when Mr. Papineau took flight from Montreal he crossed over from the Bout de l'île to the island of Saint Thérèse and had an interview with Girod, whom he is said to have instructed to proceed to Saint Eustache, and support the movement to be made in the county of the Two Mountains, seconding the effort to be attempted on the Richelieu. Girod, immediately after this date, presented himself in the village of Saint Eustache and assumed the title of general-in-chief.\* A large number of the residents of the six counties had assembled both at Saint Denis and at Saint Charles. Mr. Papineau proceeded to Saint Denis, and sought refuge with Dr. Nelson in that village. Nelson was exceedingly popular from his amiability of character, from being a medical man, and also from his prosperous circumstances, as he was owner of a distillery in that village.

The rescue of Damaray and Davignon had brought matters to a climax, so much so that 13 of the French Canadian magistrates of Montreal issued an address cautioning the

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\* "*Journal Historique des événements arrivés à Saint Eustache pendant la rébellion du comté du Lac des deux Montagnes. Par un Témoin Oculaire, 1838,*" page viii.: given in the volume of colonel Globensky.



inhabitants of the parishes to avoid all violent proceedings, to return to their families, and to commit themselves to the protection of the law and the British government. That neither the military force nor the civil authorities could be assailed with impunity, and the aggressors would become the victims of their temerity. "Those who urge you to these excesses are not your true friends. They have already abandoned you, and will again abandon you in the moment of danger, whilst we, who recall you to the paths of peace, believe ourselves to be the most devoted servants of the country."\*

At Quebec the first men of the city offered their services to form a corps of light infantry, to serve without pay or allowances in any way the governor-general might direct. The offer was accepted for four companies, each to consist of from 60 to 80 men. The regiment was organised, and performed the garrison duty for the whole winter gratuitously, the parliament house being assigned as a drill hall and guard house.

In Montreal steps were taken to protect the country on the Richelieu. The day after the rescue of Damaray and Davignon the 1st Royals, under colonel Wetherall, marched for the fort at Chambly. A small detachment of cavalry, with two field-guns and some 20 troopers of the Montreal volunteer cavalry, accompanied them.

As they passed by the scene of the affair of the previous day, between three and four miles from Longueuil, the waggon lay on the road; beside it the dead horse. As they advanced they found the houses by the road side, from which shots had been fired the preceding day upon the cavalry, entirely deserted. On being examined, fires in some instances were burning; such generally was the case with the houses on the route. Mounted men were noticed on the side concessions; on seeing the troops they turned about and rode off. One

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\* This address was signed by "D. B. Viger, Pierre de Rocheblave, Louis Guy, Edouard M. Leprohon, Etienne Guy, P. R. Leclerc, William B. Donegani, Charles J. Rodier, Alexis Laframboise, Jules Quesnel, Felix Souigny, P. J. Lacroix, N. E. Barron."

person that the troops met gave the information that he had seen many persons leaving their homes and passing down the concession roads. About six miles from Chambly, a man armed with a fowling piece was taken prisoner. He admitted that he had left to join a party with the design of opposing the march of the troops. A mile further in advance about thirty mounted men were seen, who galloped up the concession leading to the Belœil mountain. Pursued by the cavalry some took to the woods ; others escaped by the roads. A company of infantry was ordered to skirmish through the bush. Some shots were exchanged and two persons named Mongeau, father and son, were taken, both armed with a supply of cartridges, which they admitted to have received from Dr. Kimber, of Chambly. At Booth's tavern, near Chambly, a party of 100 men were posted beyond the bridge. It is no accusation of cowardice that they felt themselves unable to oppose the march of a British regiment such as the Royals. So they made off as the regiment advanced, although evidently prepared to attack.

It had become known to the authorities that large numbers of the neighbouring *habitants* were collected at Saint Denis and at Saint Charles. It accordingly was deemed necessary to disperse these assemblages, and to arrest the leaders, for whom warrants had been issued. It was determined that colonel Wetherall should advance by Chambly and that colonel Gore, leaving Sorel, should first proceed to Saint Denis, and after having quieted the tumult in that village, make a junction with Wetherall at Saint Charles, six miles to the south.

I will first trace the operations of colonel Gore.

On the 22nd of November he left Montreal by the steamer "Saint George" for Sorel. His force consisted of a company of the 24th and two companies of the 32nd, from 16 to 20 artillerymen, with a 12 lb. howitzer, and 12 of the Montreal cavalry. He was strengthened at Sorel by a company of the 66th, the whole numerically about 250 men. One object of the expedition was the arrest of Dr. Nelson at Saint Denis, against whom a warrant had been issued. The draught of the

steamer prevented it ascending the Richelieu. Gore accordingly started from Sorel about half-past seven. On the march to Saint Denis the roads were ankle-deep in mud and slush. The weather was stormy; gusts of piercing wind alternating with sleet and the coldest rain. The Montreal cavalry preceded the column which followed the road to Saint Ours, 12 miles distant. As the advance guard moved forward they came upon two *habitants* who, when brought to Gore, informed him that the beams supporting the bridge at the *Ruisseau de la Plante*, some few miles north of Saint Denis, had been cut away and the passage of the stream made impossible. Gore had no means of repairing the bridge. He had neither artificers nor tools. The troops had rations in their haversacks to serve only for a few hours. No preparations had been made for resistance as none was looked for, and Gore's object was to reach the village with despatch. Accordingly, he left the nearer road to pass by the concession Sarasant.

The march by this diversion was prolonged five miles, and the main road was not gained until within three miles of the church. The men had marched all night in this extremely trying expedition of 24 miles. Owing to the condition of the roads, and the storm which raged nearly the whole time, the march had proved one of the most severe on record, especially if the men were in marching order, and there is no reason to doubt such was the case. It was between nine and ten in the morning when the column came within sight of the stone building in which it was definitely learned that a large number of armed men were posted to resist them.

Dr. Nelson had a house in the village, and owned also a distillery there. All traces of both have long since disappeared, for they were shortly afterwards burned, and the stone of the walls supplied, doubtless, many of the chimneys in the neighbourhood. The lines of the foundation of the distillery are, however, traceable to show where it once stood. It was not far from the distillery that Dr. Wolfred Nelson conducted his defence. He took possession of a three-story house

belonging to a Madame Germain, north of the distillery. The walls were of the solid character with which structures of that date were built, so that the shots fired from the howitzer had no effect upon them.

Nelson had heard early in the night of Gore's advance, and had determined to resist it. There were numerous *habitants* in the village, possibly with the expectation of some such movement, for it was known that warrants had been issued for the arrest of Papineau and Nelson and other prominent men. Papineau had sought refuge in Nelson's private house, and it was on this morning that he took his flight to Saint Hyacinthe, whence he made his way to the States. Dr. Nelson subsequently published a statement of his behaviour on this occasion. Mr. Papineau was there as his guest. Nelson states, that at six o'clock of the 23rd he went to Mr. Papineau's room to notify him that information had been received that the troops were on the march from Saint Ours to Saint Denis. He was then going out to learn their position. He did not return to his house until the evening, having been engaged during the day in defending his position.

The attack was confined to an interchange of musketry, for to take the stone house by assault was an impossibility. Nelson describes it as commencing about half-past nine and lasting until four. Other accounts state that about ten the fire opened, and that at half-past two Gore resolved to retire. There was a wooden store on the river bank, in which men, selected as being good marksmen, had been stationed. It was from their fire that Markham was wounded in endeavouring to get to the rear of Nelson's position.

I have endeavoured to learn the number of those who were present with Nelson. The accounts describe the house as being full of men, but the precise number has not been ascertained. The insurgents made a gallant defence, sustaining the attack for four hours and a half, and so successfully resisting the detachment that Gore was forced to retire. Moreover, in the action 13 of the defenders were killed. The loss of

the detachment was 6 killed and 10 wounded, 5 of whom were left on the ground. They were considerably cared for by Dr. Nelson. The howitzer was left behind. The affair was an exchange of musketry, with discharges from the field-pieces of the troops.

The howitzer could only throw shells through the barricaded windows ; while the adjoining house, also occupied by marksmen, could not be stormed owing to the fire from the stone house. The besieged had indeed much their own way in the action. Protected by an unassailable position, they could deliberately fire on every exposed soldier.

It now began to freeze, and the damp boots and clothes became hard upon the feet and persons of the men. They had been actively engaged in marching and in action for nearly seventeen hours. Direct from the wearisome march of the leagues I have described, they at once came into action imperfectly fed. Gore began to fear that his retreat might be cut off from Sorel, and it was necessary to pass by the broken bridge while it was light. His ammunition was falling short, and he was without a commissariat to obtain provisions. After marching three miles, his men were so worn out that he judged it advisable to bivouac for the night. It was early at mid-day of the 24th that he reached Sorel.

As has been said, he left on the field 6 dead and 5 wounded men, with the spiked howitzer.\*

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\*Much discussion has arisen as to the conduct of Mr. Papineau on this occasion. It is admitted that during the contest he left Saint Denis for Saint Hyacinthe, whence, in a few hours, he gained the United States. In after years, he threw the responsibility of the proceeding on Dr. Nelson as having counselled him to depart, and having given the opinion that he should not expose his life unnecessarily, for it was not in that place he would be most useful. Nelson and those who had taken up arms were the men of action, and it was for them to act. If they succeeded they would do so without him. If they failed, it was not his presence that would hinder the result. Mr. Desaulles, the nephew of Mr. Papineau, declared that both he and Dr. O'Callaghan were present at this conversation which took place at 9 o'clock, and that O'Callaghan had determined to act as Papineau resolved.

Dr. Nelson denied the whole statement. He asserted that it was entirely false that he had advised Mr. Papineau to depart, and it was equally false that Mr. Papineau had seized a gun to join the combatants. On the contrary, it was not



At Saint Denis, on the morning of the 23rd of November, took place the tragedy of the death of lieutenant Weir, of the 32nd regiment. On the morning of the 22nd, Weir had been sent by land to Sorel with despatches to the officer in command at that garrison, to have two companies of the 66th in readiness to join colonel Gore's force on its arrival by

possible for him to have held the conversation at 9 o'clock, for he had left his house at 6, and did not return until after the affair was over. Dr. Nelson stated that between 9 and 10 Mr. Papineau sent a messenger, asking if he should leave, to which the answer was given that he should not quit the spot. As long as he (Dr. Nelson) remained at his post, there would be no danger for him, but should the Doctor fall, he (Papineau) should come and take care of "our friends." Dr. Nelson denied that he was elected "general"; he had considered himself the subaltern of Mr. Papineau, not his superior, and had unflinchingly obeyed his orders and suggestions. Nelson supported his statement that he did not leave Madame Germain's house after 6 o'clock by the evidence of parties present, and that of the men who furnished the horses to Mr. Papineau, who certified that Nelson was not present at any time of the conversation between them. Mr. Desaulles sustained his view by evidence that Dr. Nelson had stated Papineau had left at his suggestion. Both Mr. Bonaventure Viger and Mr. Goddu, who were sent to Bermuda, testified that Dr. Nelson had always justified Mr. Papineau's departure as having been undertaken at his desire. There can be little doubt that Dr. Nelson did so justify Mr. Papineau's departure, but when Papineau returned to Canada and commenced his agitation against Mr. Lafontaine, pursuing his old tactics and endeavouring to undermine the latter, Dr. Nelson felt that it was no longer his duty to screen his old leader, and gave utterance to what he declared to be the truth.

The question for history to determine is not whether Mr. Papineau left Saint Denis at the commencement of the attack, through the importunity of Dr. Nelson, or whether he acted by his own impulse in departing from the scene of danger. It suffices to say that he took horse and drove to Saint Hyacinthe, the first stage in his flight from the country, abandoning the men whom he had incited to rise against the government, and who had assembled to defend with their lives the principles which for years he had actively propagated. The French have introduced into our language the phrase of "having the courage of our opinions." There is no example of its application to Mr. Papineau. In the hour of danger, when those who through faith in him were risking their all for the Canadian cause, life and property, as Luther puts it in his immortal hymn,

Nehmen sie uns den Leib  
Gut' Ehr' Kind and Weib  
Lass fahren darin.

Mr. Papineau was placing himself in safety by a flight as rapid as he could effect. Shakespeare tells us "courage mounteth with occasion." There are exceptions to every rule, so in the stern game of insurrection, Mr. Papineau proved that for him occasion worked no such influence; while he deliberately for self-preservation

the Montreal boat. Although the distance from Longueuil is but 28 miles, the roads were so bad that Weir, who was mounted, only arrived at Sorel some hours after Gore's departure. It has been explained under what circumstances Gore abandoned the direct road. The consequence was that from the delay in obtaining a *calèche*, from the terrible state of the weather, and from Gore's forces having turned to the concessions, when Weir arrived at the point of this departure he missed Gore's column. Gore had left Sorel at half-past seven in the evening. Weir did not leave until eleven at night.\* This difference of time accounts for Weir's failure to join the column.

It is not said how he managed to cross the *Ruisseau de la Plante*, the bridge which Gore had been told had been made impassable. On arriving within three-quarters of a mile from the village, the *calèche* was stopped by an armed party of some strength, to whom the explanation was made that they were going to Chambly, but the two were taken by four of the patrol to Dr. Nelson's house. The carter, after having been kept an hour in the kitchen, was discharged.

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set aside every consideration, but that of seeking safety in flight. In the dispute which took place on the subject in 1848, after the return of Mr. Papineau to Canada, it was stated that he never desired any coercive measures to be taken towards England, further than to abstain from the purchase of her manufactures. Dr. Nelson brought to his memory that at his house at Saint Denis on this occasion a declaration of the independence of Lower Canada had been drawn up, which Mr. Papineau had been the first to sign. His signature was followed by six others. The names of three are given; Dr. Nelson, Dr. Kimber and Mr. Bourdages; who the other three are must be left to conjecture, but as Dr. O'Callaghan was present, it is not likely his name could have been absent. Mr. Bourdages described the paper as a call for a convention of delegates to declare independence, which amounts to much the same matter, and perhaps a safer admission to make in after years. Whatever the real character of the document, when it was known that the troops were advancing against Saint Denis, it was destroyed, by being burned.

[*La Minerve*, 24th July, 1848, in which the letter of Dr. Nelson appears. The letter of Mr. David Bourdages is given in the issue of the 21st of August.]

It was at Saint Denis that sir George Cartier, then a young man of 23, took part in the defence. During the affair he proceeded to Saint Antoine for ammunition, and returned to Madame Germain's within an hour.

\* [Evidence of Dr. Carter and Lavallé, the carter who drove him. Given at the trial of Jalbert in 1839.]

Nelson, in a memorandum, described Weir's arrival at one o'clock. But that hour is manifestly incorrect, for Weir left Sorel only at 11. The distance to Saint Denis is nineteen miles and the roads were such that the journey must have taken five or six hours. The possibility is that it was past five when Nelson's house was reached. Nelson described Weir as being in plain clothes. It was subsequently established that he wore his undress blue military coat, but over it a civilian's thick pea-jacket. He was without arms, his sword and his baggage having been sent on by the steamer; and there was no warrant for saying Weir desired to conceal his military character. Nelson described Weir as having reluctantly stated who he was. It can well be conceived that, having been stopped on his journey, he was not disposed to be communicative. Finally, on Nelson hearing his position, he made the offer of some refreshment, which Weir declined. He partook, however, of some hot spirits and water, for he was suffering from a chill. As it was dark, Nelson suggested that Weir should lie down, a suggestion he declined. He was told he must be content to be detained for a few hours, and it would seem that he breakfasted with Nelson. Three parties were detailed to keep him company, among whom was Dr. Kimber, of Chambly. As Dr. Nelson himself told us, he left his home at six. Previous to going he gave Weir in charge to a captain Jalbert. Jalbert was instructed to take Weir to Saint Charles, with two men detailed to accompany him, viz., Lussier and Methot. There was a third person, named Guirten, who took his place in the waggon, but owing to the badness of the roads, he was told to leave his seat. One François Migneau, the postmaster, as he himself testified, undertook to drive. Jalbert accompanied the waggon, being mounted as if in command. It was subsequently explained that Nelson took this course in the interest of Weir; from fear that when the attack commenced, if any of those resisting should fall by the fire of the military, the rage of the others present might be aroused and take satisfaction upon Weir.

There was some delay in starting, for Weir was still at Nelson's house at 8 o'clock. The waggon with Weir and the two men arrived opposite a small street south of the church, called in modern times *Rue du couvent*, owing to the convent standing at the corner. Weir was bound by a stout strap round his arms, but his legs were free. As the *calèche* reached the spot, the firing had commenced at the north of the village, about a quarter of a mile distant. Weir, believing that he could join his regiment, jumped from the *calèche*. In the endeavour to escape he fell. Those in charge of him jumped out after him and deliberately cut him down. The first blow, it appears, was given by Methot, when his sword broke and he called for assistance. According to Migneau, a man named Joseph Pratt then came up, and with a cavalry sword struck several blows. The waggon in the meantime had gone on 40 feet or so before it could be stopped. Migneau describes himself as assisting Weir by lifting him up, and finding him severely wounded. Testimony was given of Jalbert crying out, "Finish him" (*achevez-le*), "finish him!" When the body was recovered, the autopsy disclosed the many wounds the unfortunate officer had received. Some of them were pistol shots. His death was effected with great brutality, no doubt more from the excitement of his attempted escape, than from design. With his arms bound poor Weir was completely at the mercy of those from whom he was endeavouring to escape, who attacked him with pistols and swords.

Mr. Griffin, a lieutenant of the regiment present in the second expedition of Gore to Saint Denis, states in his report, that the body was found in the Richelieu river weighted down with stones, lying on its face in about two feet of water.

The tradition in the village is that the body was buried. A spot is shewn a short distance from the bank near the scene of his death, where it was found on Gore's entering the village. On the 8th of December Weir was buried at Montreal with much solemnity. Jalbert was subsequently tried for the murder in September, 1839. No verdict could be

obtained, ten of the jury being for acquittal, and two for finding him guilty. The trial was watched with much interest, and when it was known that no verdict would be rendered, a riot was feared, and the troops were kept under arms lest occasion should demand its suppression. As it was, on the discharge of the jury those who declared for the acquittal were assaulted. They were, however, efficiently protected by the police. The determination was formed to try Jalbert a second time, for there was a general belief in his guilt. It was felt, however, that it was impossible to obtain a conviction, and Jalbert was finally set at liberty. Thus this murder remained unpunished.\*

During the operations of colonel Gore at Saint Denis, colonel Wetherall was undertaking the expedition against Saint Charles from Chambly. His force consisted of four companies of the Royals and a company of the 66th, from 250 to 300 men, a detachment of artillery with two field-pieces and 12 of the volunteer cavalry. On the 22nd of November major Guky was bearer of a despatch to colonel Wetherall at Chambly, conveying the order to march that night for Saint Charles, to make a junction at that place with colonel Gore. The orders were not to halt, but to reach Saint Charles at an hour named on the following day. No one in the detachment knew the road: nobody spoke French. Major Guky, therefore, accompanied the expedition. There was a perfect storm of rain and wind when the march began. It was succeeded by a sharp frost. The column followed the western side of Chambly basin to Point Olivier, at which place it crossed the river at Saint Mathias. The men were utterly exhausted. Wetherall, nevertheless, determined to follow out his order to the letter and march on. Seeing, however, the condition of his men, and, as Guky tells us, influenced by his

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\* The tradition preserved at Saint Denis, is that Jalbert took no part in the crime, but dipped his sabre in the blood and paraded himself as the leader in the fact; that in so doing he was only guilty of *fanfaronnade*. The men who are accredited with killing him are Louis Lussier and Jean Baptiste Methot. Pratt also is considered to have taken part in the murder.



representations, Wetherall resolved to bivouac, and halt was then made. Gury has left on record that he billeted the troops, and there he first learned that Wetherall had marched without a dollar, without a loaf of bread, without a spare cartridge and with no commissary.

He further relates how he himself acted in the latter capacity. On the arrival of the column at Rouville, he purchased bullocks and flour, secured the services of butchers and bakers, so that rations were served out. Obtaining information that led him to believe some disaster had happened to Gore, he induced Wetherall to send for the company of the regiment left at Chambly under major Warde. The despatch was carried at night with some risk by Mr. Sydney Bellingham, of Montreal, who was present with the column, accompanied by one of the Montreal cavalry. It was personally delivered to major Warde at four in the morning.

Major Warde joined with the Grenadier company the following day, the 24th. He marched to Pointe Olivier and compelled the ferryman to drop down the river with the scow to Rouville. Thus Warde's company arrived fresh and in good condition, ready for any movement. During this period all communication from Montreal had been cut off. No one was allowed to pass on the roads. No news was received. On the 25th the march was continued; the distance to Saint Charles is six miles. There was no interruption to the advance. Brown states that he destroyed a small bridge over a ravine to the south of Saint Charles. The proceeding does not seem to have delayed the troops. Shots were, however, fired from the opposite bank of the river at Saint Marc, by which one man was wounded.

The ground at Saint Charles is precisely as it was in 1837. About one-fifth of a mile from the church, on the farm now held by Ernest Langevin some rude intrenchments had been thrown up from the river bank. They extended some 800 feet to the bush, and they surrounded the seigniorial residence of Mr. Debartzch, held by the insurgents. Three houses and a barn stood in the road, from which some shots

were fired as the column advanced. They were at once burned, and the road cleared for the attack.

The insurgents were under the direction of the Thomas Storrow Brown who has been mentioned. After the troubles he returned to Montreal, when the whole was forgotten, and he became popular from his *bonhomie*. The wonder was how he got mixed up in the troubles, for he was utterly without the qualification to be a leader. He was in the iron retail trade, and is recollected by Canadian numismatists as having been one of the first to issue a halfpenny token, bearing his name, still sought after by collectors. There is so much fable about these times that every account has to be received with suspicion. Brown had made himself conspicuous in Montreal, and had taken an active part in the tumult of the 6th of November on the side of the "*Fils de liberté*." In the memorandum that he gave of his proceedings some years afterwards, he stated that he lost one eye on that occasion. On learning that a warrant had been issued against him, he made his way to Pointe-aux-Trembles, whence he crossed to Varennes. There he met some young men on his side in politics, and hearing that large numbers of the inhabitants had assembled at Saint Charles, they all determined to proceed thither. He had never been to the place before, and only slightly knew one person there. The three arrived at the opposite village of Saint Marc at daybreak on Saturday, the 18th, and crossed over to Saint Charles. Brown was immediately appointed general. The fact is a proof of the extent to which the outbreak was discountenanced by men of influence and position.

The insurrection by all accounts had received support from the *curé* M. Blanchet, one of the rare exceptions among the ecclesiastics, that he was a supporter of Mr. Papineau. It is said when he read Monseigneur Lartigue's *mandement*, most of his parishioners left the church with curses. There does not appear to have been any reproof on his part of this conduct; and on the days when the people from the surrounding country were crowding into the village, he freely administered the

sacrament, knowing that they were present to resist the authorities. Mr. Brown relates how he gave instructions to fortify the defenses. He took possession of the *manoir* from which Mr. Debartzch with his family had been forced to flee for their lives, making use of the plentiful supply of provisions which had been gathered there. There appears to have been nothing done on the Sunday. Mr. Brown tells us that the people from the surrounding country came in great numbers, "all enthusiastic and ready to devote life and property to the call of the country," but, adds Mr. Brown in this account, written for the information of Dr. Nelson, "the chief men were, as you remember, with two or three exceptions, absent or secreted." Some suspected persons in the village were arrested by Brown, as he busied himself with obtaining provisions, and seizing provender where it was not given willingly: he also appropriated some barges of wheat shipped for Montreal, for which he gave a receipt. He killed cattle, and exerted himself to secure the means of subsistence for the men over whom he had been appointed to take command. On the 24th Brown reconnoitred the country. He tells us that he destroyed a small bridge over a ravine, and placed a picket there on the road to fire upon the troops on the march. None of these arrangements, as he relates them, were carried out.

Mr. Brown explains his absence from the attack by having been thrown from his horse. But he re-mounted, though sadly bruised. Of the numbers that had come in during the preceding days, he tells us that seeing only 70 were at the post, he hurried back to the village to bring up the men who might be there. As he returned, he found the people abandoning the place. He tried to rally these several squads in vain; finding his authority gone, he turned his horse and rode to Saint Denis. The fact is authenticated that colonel Wetherall sent an old *habitant* to Saint Charles with the assurance, that if those who had assembled would return to their homes and would separate before his arrival, no investigation should be made with regard to who had been present, and all would be forgotten. To this condition he

pledged his personal word. As it was plain, when he reached Saint Charles, that no attention had been given to his offers of peace, he deployed his men and prepared for the attack. He even still hoped, now that the crisis had come, that those assembled would see the folly of opposing the force he was bringing into the field, and that there would be no resistance. It was evident no such feeling prevailed, for within the intrenchments the defenders commenced an active fire. After the volley had been returned by the regulars the intrenchments were stormed and the defenders driven to flight. In an hour all was over. Much exaggeration is to be found in the estimate of the losses. There, however, can be no misunderstanding as to the official reports of that of the detachment, viz., 1 sergeant and 2 rank and file were killed, 18 were wounded, 10 seriously. One statement is that 152 of the insurgents were killed and 300 wounded. The tradition in the village to-day is that 42 were left on the field, and a very great many wounded. We know that 30 prisoners were taken, owing to their arrival in Montreal. Undoubtedly with these figures, and consideration being taken of the short period of the affair, there must have been only some hundreds engaged in resistance behind the intrenchments.

The troops proceeded to the village and bivouacked in the church, where they remained until the Monday. No part of the village was burned, or even placed under contribution, except on payment for what was taken. Complaint was made that the church was treated roughly, but it could not be otherwise. It is untrue that any designed indignity was in any way shewn to the edifice. A detachment shortly afterwards occupied the village for some weeks. When all was quiet it was moved to Montreal, and the old simple habits of the place were resumed.

The failure of the attempt at Saint Charles really terminated the rebellion in the Richelieu counties. The outbreak to the north simply shewed the desperation and folly of those engaged in it. However serious affairs threatened to prove at Saint Eustache, when the time for repression came, the

collapse was immediate and final. Mr. Papineau remained at Saint Hyacinthe until he heard of the reverse at Saint Charles. He then returned, accompanied by two or three of his dependents, to the Richelieu, and, avoiding the settled parts of the country and travelling by night, passing over the half-frozen swamps, and often suffering great hardships and privations, finally reached Albergh, on Missisquoi bay, where he crossed over to Swanton, in Vermont. He was still accompanied by O'Callaghan, who closed his turbulent career in Canada by his shameful flight.\*

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\* It is only a matter of justice to Dr. O'Callaghan to bear witness to his useful and honourable career in the United States. He was employed by the legislature of New York to translate and edit the documents bearing upon the early settlement of that state, many of these papers being closely connected with Canadian history. This work he performed with judgment and ability. The documents in French were translated by him, and he added many notes, in which I am happy to say there is not the slightest trace of the style of the *Vindicator*; on the contrary, they are expressed with fairness, and testify to the writer's careful research.

The following are the works completed in his editorship :—

#### DOCUMENTARY HISTORY OF NEW YORK.

Date of Pub.	
1849, Vol. I.	} Miscellaneous matter with fac-similes of Maps, Engravings, etc.
1849, Vol. II.	
1850, Vol. III.	
1851, Vol. IV.	

#### DOCUMENTS RELATING TO THE COLONIAL HISTORY OF THE STATE OF NEW YORK.

1856, Vol. I.	Holland Documents, 1603-1656.
1858, Vol. II.	Holland Documents, 1657-1678.
1853, Vol. III.	London Documents, 1614-1692.
1854, Vol. IV.	London Documents, 1694-1706.
1855, Vol. V.	London Documents, 1707-1733.
1855, Vol. VI.	London Documents, 1734-1755.
1856, Vol. VII.	London Documents, 1756-1767.
1857, Vol. VIII.	London Documents, 1768-1782.
1855, Vol. IX.	Paris Documents, 1631-1744.
1858, Vol. X.	Paris Documents, 1745-1774.
1861, Vol. XI.	General index.

I can myself bear witness to their value, as in the early volumes of this history I have made frequent reference to them. In my humble judgment they should



Mr. Storrow Brown tells us how he galloped from Saint Charles, the two leagues, to Saint Denis before nightfall to communicate to Nelson the fate of his adherents. The news soon became generally known, and led to a scattering of those who had fought by the side of Nelson. They had lost all faith in their cause, and Nelson found himself literally alone. For him the die was cast. Feeling that he could obtain no pardon, or disdaining to ask it, he became a fugitive. Following the direction of the Yamaska to the eastern townships, he took the bye-roads and the woods in his effort to reach the lines. A reward was offered for his apprehension, £500, but no such stimulus was needed to awaken the population of the townships. The whole country was aroused to defend the government, and every avenue leading to the frontier was beset by volunteers. It was believed that Papineau had escaped, although £1,000 had been offered for his apprehension. As nothing was heard of Nelson, it was supposed he had similarly broken through the meshes of the net. He was, however, taken on the morning of the 12th of December by a small party of four of colonel Knowlton's militia and given in charge of a detachment of the Missisquoi volunteers. He was exhausted by his suffering from cold and hunger. During the preceding seven nights he had rested without covering, generally without a fire, to escape detection, in danger of freezing if he tried to sleep. He was so shattered as to awaken the pity of his captors. He had been accompanied only by a Canadian named Celestin Parent and an Indian. He was treated with great humanity and kindness, for the courage he had shewn had awakened respect, and his care for the five

find a place in every library in which there is the slightest pretence to collect historical works of any worth.

I must confess I have been often surprised to hear the indifferent opinion expressed in New York regarding them. They are most valuable to the historical student. Moreover they bear honourable testimony to the liberality of the House of Representatives of New York and the service it has rendered to literature.

As Dr. O'Callaghan's name reached Canada in after years when he became distinguished, it was said that any allusion to his career in Lower Canada was most unwelcome to him; it is believed that it was a painful passage in his life that he would willingly have forgotten.

wounded soldiers he had tended now stood him in good stead. He was brought into Montreal and lodged in prison.

As it became necessary undoubtedly to establish order at Saint Denis, on the 30th of November Gore started with three companies of the 24th, a company of the 32nd, a detachment of artillery with 2 field-pieces and 12 of the Montreal cavalry. The steamer Saint George was unable to ascend the Richelieu, so Gore landed at Sorel, where he bivouacked for the night. Next morning he marched to Saint Denis. All was quiet, as if there had been no agitation. It was however considered necessary to make some example of the disloyalty of the place. Madame St. Germain's house with the small tenement adjoining it, Nelson's distillery and the private residence of Nelson were burned. It was never clearly established by whom this act of retaliation was ordered. Colonel Gore distinctly repudiated it. What was more to his satisfaction, he obtained the howitzer he had abandoned, and the five wounded men. The fact however remains that these places were burned ; so far as I can learn they were the only portions of the village so destroyed. It may be said that the narrow limit of the rebellion was then unknown. Especially as to the north of Montreal there was much disloyal bluster and turmoil. No one could form an idea of the extent of the insurrection, and in the times of danger and excitement it is not always easy to restrain men whose blood is up. All that is left to write of these excesses is to place on record the narrative of what evidence has established. Gore's force returned to Montreal.

At Saint John's, colonel hon. Robert Jones, in command of the Missisquoi militia, shewed great activity ; he sent word to the officers of his companies at Saint Armand to obtain the names of those willing to serve. In a few hours 249 volunteers not only reported themselves, but took the field. Some of the parties in his neighbourhood who had acted disloyally he arrested and sent prisoners to Montreal. His determination did much in preventing further mischief.

At the end of November the murder of Chartrand took

place. He lived at Saint John's and had enrolled himself as a volunteer. He was a stone mason, and had gone five or six miles to l'Acadie to collect a debt. On returning in the afternoon he was intercepted by 10 or 12 men, several of whom carried loaded muskets. They conducted him to a building in the neighbourhood used as a school house, where, after the mockery of a trial by these ruffians, he was sentenced to death as a spy. He was led out, tied to a tree by a rope, and murdered; he was found with a shot through his heart, with other wounds to shew his fate at the hands of his remorseless murderers. In 1838, François Nicholas, Amable Daunais, Joseph and Gédéon Pinsonneault were charged with the crime. One of those present, Etienne Langlois, incited, it was said, by the parish priest, gave information which led to their arrest. The French Canadian jury empanelled to try him, in face of the clearest evidence returned a verdict of not guilty. But in the case of the principals, Nicholas and Daunais, their punishment was only delayed. They were both hanged for participation in the outbreak of 1838. It was undoubtedly the most atrocious crime of those days.

A slight episode was to occur on the frontier, so feeble in its action, as really to come within the realm of ridicule. Several of those who had sought refuge after the wreck of the insurrection at Saint Charles had succeeded in reaching the state of Vermont at Swanton, a small town of some importance. It became the centre where the insurgents met, among whom were Dr. Côté and Dr. Kimber, with Mr. R. S. M. Bouchette, of Quebec. It has always been a wonder to those who knew Mr. Bouchette how he became entangled in this relationship. He was of a family of great respectability and of devoted loyalty. His grandfather had brought away Lord Dorchester in 1775 from the craft leaving Montreal, when threatened by the congress troops of Montgomery, and had carried him in safety to Quebec.\* He had married a lady of rank in England, who had unfortunately died from cholera in 1836, and was established at Quebec. From his

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\* [Ante, V., p. 462.]

polished manners and accomplishments he was a great favourite in society, indeed so remained to his last days. Having attracted attention by his disloyalty, he had been arrested and admitted to bail. He had not been present either at Saint Denis or Saint Charles, but from fear of arrest had fled the country. He had taken refuge at Swanton, where the project of an expedition to enter Canada was formed. A strong feeling had been created at Swanton in favour of the refugees. The female portion of the community, generally speaking, affected great sympathy with their efforts to attain what they called Canadian independence, so they worked an artistically conceived banner to be carried in the expedition, which in their view was to achieve freedom. It was the only assistance given, if hospitality and the smiles of encouragement of the *beau sexe* be excepted, for none of the male population accompanied the expedition when it took place.

The militia of the county of Shefford had applied to sir John Colborne to be supplied with firearms. A meeting had been held at Granby on the 23rd of November, attended by all in the township who could be present, in which the excesses and threats against the loyal portion of the community were denounced, and their own determination fervently expressed to defend law and order. The demand for arms was made with the pledge to defend the "government under which we have the happiness to live." The arms were sent, and no sooner were they in possession than news was received that the insurgents had passed the frontier. Many explanations have been given for this attempt, so weak and apparently aimless, that it is scarcely possible to treat it seriously. Some writers tell us that the invading force consisted of seventy men only, yet mention is made of the presence of a general, his aide-de-camp, and four officers. The objective point named by these writers is Saint Césaire, a village on the Yamaska, in the county of Rouville, some 30 miles north of the lines. They had been informed by Mr. Papineau that Nelson, *le vainqueur de Saint Denis*,

was there intrenched with a considerable force. It has been asserted, on the other hand, that the intention was to proceed to l'Acadie, six miles west of Saint John's, where they would be joined by numerous active sympathisers, again to raise the standard of revolt.

According to the official report of captain Kemp of the volunteers, on the 6th of December he had left Saint Armand for the purpose of escorting the arms and ammunition which had been sent to Ile-aux-noix and placed in waggons for distribution. He had not proceeded far on the road to Philipsburg within two miles of the frontier on Missisquoi bay, when he received information that early in the morning a considerable body of the insurgents had passed through the village to the state of Vermont, and were expected to return before night and burn the place. Kemp immediately sent expresses for men to join him at Philipsburg, armed or unarmed. About four miles from the village he left his empty waggons and struck through the woods to meet the loaded waggons at the head of Missisquoi bay, and strengthen the escort sent from Caldwell's manor and Saint Armand west. Philipsburg was reached at half-past four, where he met the men his scouts had summoned. The muskets and ammunition were scarcely served out when news arrived that a body of men, well equipped, with two pieces of cannon, were marching upon the village. A position was taken up half a mile on the western road. They had remained on this spot about two hours, when reliable information came that the invaders were marching by the southern road, and were within three miles of the village.

Placing a strong guard on the ground he had held, Kemp, with a force of 300 men, took up a position two and a half miles south of the village, at the intersection of the cross roads leading to Swanton and Saint Armand, known as "Moore's corners." He there found the pickets he had sent out, who, unperceived, had retreated before the insurgents about 200 strong. As the invading party came into view the leading files, without orders, commenced firing. The ranks



were composed of men without discipline, who had only that evening received their arms. They understood they were to fight for British connection, and, as they saw those who were endeavouring to violate it in arms to effect their purpose, to their minds their duty was very plain to attack without delay. These tactics succeeded. There was an attempt at resistance for ten minutes by the discharge of guns and rifles in so reckless a manner that not one of the loyal force was wounded. The insurgents without further effort abandoned their ground and in great disorder took flight to Swanton, where they arrived safely, leaving behind one dead, two wounded, one of whom was Bouchette severely, and three prisoners. They also abandoned 2 field-pieces on carriages, 5 kegs of powder, 6 boxes of ball cartridge, 70 muskets, partly in boxes, with 2 standards worked by Swanton feminine sympathy. The darkness of the night, the vicinity of the woods and the proximity of the boundary line admitted of the escape of the insurgents. The want of discipline on the part of those who had driven them back must also be taken into consideration when relating that the invaders were able to effect their retreat.

## CHAPTER III.

It is believed that when lord Gosford heard of the rescue of Davignon and Demaray, he considered it to be no serious matter. Indeed he is reported to have said, that he had himself witnessed more determined scuffles at Irish fairs. The events of Saint Denis and Saint Charles could not be treated so lightly; accordingly, a proclamation was issued on the 29th of November. It was unnecessarily long and argumentative, pointing out that the misguided and inconsiderate population of the river Richelieu had committed the first excesses of a reckless and hopeless revolt. It called upon the loyal population to counteract their rebellious designs. It was sufficiently conciliatory, but in modern times it cannot be admitted as a mark of lord Gosford's ability and judgment.

On the appearance of the proclamation, the governor-general was waited upon by Messrs. Lafontaine and Leslie, with the suggestion that he should summon the house. The proposition could not be commended for its modesty, for several of the members of the legislature were leaders in the insurrection, of which the speaker was the very life and soul. The suggestion was rejected: and it would appear peremptorily. Mr. Leslie was of British descent, but had always been a supporter of the extreme political views of Mr. Papineau. He had not, however, personally countenanced the more violent proceedings on the Richelieu. Accordingly, he returned to Montreal. Mr. Lafontaine did not follow his example. He held it to be more prudent to leave Canada; so passing by the Kennebec road, he gained the States and proceeded to London, thence to Paris, where he remained for some months.

On the 1st of December a proclamation was issued offering £1,000 for the apprehension of Papineau. A similar proclamation, dated the 29th of November, had offered £500 for the arrest of Dr. Wolfred Nelson, T. Storrow Brown, Dr. O'Callaghan, Dr. Côté and Drolet, of Saint Marie. It dealt also with the men who were attracting attention in the county of the Two Mountains; Mr. Girouard, of Saint Benoit; Mr. W. H. Scott, of Saint Eustache; Dr. Chénier, of Saint Eustache, and the Swiss, Girod, who was making himself notorious in that place. Mr. Edward Rodier, of Montreal, was also included. A reward of £400 was named for eight of the inferior agents. These proclamations were followed on the 5th of December by the proclamation of martial law, placing the power in the hands of sir John Colborne. At the end of the year 37 prisoners had been arrested.

Before the close of navigation the several banks of Montreal had transferred from their vaults, for safekeeping to the citadel of Quebec, the specie held by them. After Saint Denis the 34th and 43rd regiments had marched from New Brunswick to reinforce the troops in Canada. They were accompanied by field-pieces, to make any attempt at interference impossible. The 85th also left Halifax on the 6th of November to ascend the Saint John river on the same route. Through New Brunswick every service was rendered by the inhabitants to the regiments with cheers and expression of good wishes. As they approached the Canadian frontier, more caution was adopted, but the same marks of loyalty and good feeling attended them through Lower Canada to Quebec. The well known hospitality and graceful manners which have ever been characteristic of the French Canadians' *accueil*, attended the troops every league of their march. May it always so continue. With this treatment the troops must have wondered who they were going to fight. The 43rd arrived at Quebec on the 28th and 30th of December, the 34th and 85th shortly afterwards. Greatly in favour of any movement from Montreal, the navigation

remained open until the 10th of December, so that stores and supplies could be safely sent there from Quebec. At Quebec it was not all disaffection. On the 4th of December a loyal address was sent to the governor-general by 700 French Canadians from Saint Roch. It was the expression of the hope that the governor-general would succeed in the effort of bringing back to a sense of duty those who had gone astray, and thanking him warmly for the disposition to indulgence shewn "to our countrymen." On the 13th of December the constitutional association issued an address to the sister colonies, in which the political difficulties of the day are succinctly narrated. I must content myself with giving two paragraphs, as expressing the determination of the British population to preserve their relationship with the parent state. "The French Canadian population were thus not only nationally inclined to mark their active opposition to their fellow subjects of British and Irish origin, but they have been taught to consider them as strangers and trespassers upon their soil; they have been taught to feel towards them none of those kindly sympathies which unite together subjects of the same country and possessors of the same rights; they have, in fine, been taught to believe themselves oppressed by their fellow subjects of British and Irish origin, and to imagine that they possessed the power of expelling their oppressors. . . . It is this exclusive French Canadian spirit alone which has given rise to all the discontent existing in this province. It is this which has, in fact, made the question one of national origin and not of any political party. In it, is to be discovered the source of all the disturbances which have brought sedition and rebellion in their train, and in it alone is to be found a full and complete answer to the inquiry, to what causes the present unhappy condition of this province is to be ascribed."

"The conclusion is borne out by the text books of the complaints of the French Canadian representatives, adopted in 1834, the famous 92 resolutions of the house of assembly, in which will be found a detail of grievances and abuses which

that body knew to be either altogether redressed, or in active course of being so. Reference is therein principally had to those which have been alluded to: the introduction of the elective principle into the composition of the legislative council, the abrogation of the tenure act, and the disposal of the whole revenue of the province. The two former have been wisely refused, the latter is unwisely granted. By their own admission, therefore, no real oppression exists in the province, and no real grievance, consistent with the preservation of British supremacy, remains unredressed."

The historical student must weigh this statement by the facts recorded in the preceding chapters.

Sir John Colborne had determined to take no steps with the unquiet spirit manifesting itself in the county of the Two Mountains, until the insurrection had been so subdued on the Richelieu and throughout the southern district, that whatever antagonistic sentiment remained had ceased to be dangerous. Nevertheless, he sent a detachment on île Jésus to watch Bord à Plouffe bridge at the north of the island of Montreal and prevent its destruction.

The insurrection to the north of Montreal may be said to have taken place owing to the news of general Gore's repulse at Saint Denis.\*

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\* We have an account day by day of what happened at Saint Eustache for the succeeding 20 days in the "*Journal historique des événements arrivés à Saint Eustache . . . depuis les soulèvements commencés à la fin de novembre jusqu'au moment où la tranquillité fut parfaitement rétablie. Par un Témoin oculaire.*"—Montreal, 1838." This brochure has been republished by Mr. Globensky in "La Rébellion de 1837." It has been ascribed to M. l'abbé Paquin, the *curé* of Saint Eustace at that date. The *curé* has left behind him a MS. volume of unedited memoirs, now in the possession of the hon. Dr. Marcil, of the legislative council of Quebec, which volume I have seen. Several extracts have been published by Mr. Globensky. I have been assured by Dr. Marcil that the ascription to Mr. Paquin of this brochure is not warranted, that the author was his *vicaire*, M. l'abbé Desève. In mentioning the name of Dr. Marcil I cannot deny myself the pleasure of acknowledging the obligation under which he laid me, by accompanying me during my visit to Saint Eustache through the scenes of the events of that time, giving me the benefit of his local knowledge and of the careful investigation he had made of those troublous times.

It is not a matter of importance to whom the authorship can be imputed.



On Sunday, the 26th of November, after high mass, the news arrived of the insurrection on the Richelieu. It created great consternation in Saint Eustache, for the village contained a strong loyalist party; consequently many found their way to Montreal for protection. The two following days the men who favoured Mr. Papineau's views were particularly active in visiting the concessions between the village and Saint

The whole question turns upon the reliability to be attached to the narrative. I conceive no reasonable person can doubt its genuineness and correctness. It was originally published in 1838 and at the time attracted much attention. The original edition is of great rarity, so much so that it is supposed that the copies were destroyed when they came into the possession of the persons opposed to the opinions the *brochure* expresses. The historical student must always recognise his obligations to colonel Globensky for having preserved this paper from oblivion.

Among the writers who bear testimony to its authenticity is M. l'abbé Verreault, whose acknowledged erudition and his never ceasing investigations of our rare records to some extent have obtained for him the rank of a dictator in French Canadian history, so that his authority on any subject is invariably accepted. He writes: "Quant au *Journal historique*, j'avais toujours cru qu'il était de M. Paquin. A l'époque où il a paru, j'étais assez jeune: mon défunt père nous le lisait le soir dans le *Canadien*. J'avais l'esprit, déjà frappé par la vue des habits rouges et des baïonnettes des soldats, qui logeaient en face de chez nous. Les détails de cette époque sont restés assez gravés dans ma mémoire. C'est de cette époque que le nom de M. Paquin m'est connu. Plus tard à Sainte Thérèse le vénérable M. Ducharme, m'a parlé des événements de 37, du rôle qu'il avait joué ainsi que M. Paquin. Je ne puis affirmer qu'il attribuait la paternité du *Journal* à M. Paquin, mais c'est l'impression que m'en est restée. Lajoie dans la catalogue de la bibliothèque du parlement, Morgan, dans la *Bibliotheca Canadensis* rangent M. Paquin parmi les écrivains Canadiens, précisément à cause de cet ouvrage. . . . Au lieu d'un écrivain vous en avez deux maintenant, et deux témoins oculaires: le vicaire M. Desèves qui me paraît, mettre beaucoup de mesure dans ses paroles; vous avez en meme temps l'opinion du curé, qui écrit au jour le jour, non en vue d'une publication immédiate. Ses impressions sont dures; mais on ne l'a pas écouté; on l'a insulté et presque maltraité; on a causé la ruine de son église, du couvent, d'un village florissant. Pourquoi? pouvait-il se demander au bout d'un an et de plusieurs années." Referring to the contention that M. Paquin is not the writer of *le Journal*, M. l'abbé Verreault continues:

... "s'il est parfaitement établi, comme je l'ai dit plus haut; c'est une erreur de moins. Mais l'auteur n'en est pas moins témoin oculaire; il n'en est pas moins véridique, et puisque M. Paquin renvoie à cet écrit pour les détails, c'est qu'il a trouvé ces détails corrects."

Indeed, it may be said that the narrative has remained uncontradicted by any writer of weight, from the circumstance that it has been impossible to impeach the truth of the facts as they are there placed on record.

Scholastique, to terrorise and disarm those known not to be of their party, and to induce others by persuasion or fear to accompany them. On the Wednesday M. l'abbé Turgeon, *curé* of Saint Rose, came to Saint Eustace, and while he was there an inhabitant of the concession of the Petit Chicot, Mr. McKay, arrived to say that the insurgents were moving upon the village, disarming all who did not entertain their opinions. In the midst of the confusion two of the leading partisans in the movement arrived, a Mr. Peltier, a young advocate of Montreal, and M. Dumouchel, of Saint Benoit. They first called on the member, Mr. Scott, and then made their way to Dr. Chénier. McKay himself hurried on with his information to Montreal, and there joined a volunteer regiment.

That night a large number of the insurgents arrived, and with those of their party in Saint Eustache got noisily drunk.\* They went through the streets of the village, aroused from sleep several of the residents and forced them to join the movement. About 400 being thus assembled, they proceeded to the Indian settlement at the lake of the Two Mountains, where they arrived at daybreak, some six miles from Saint Benoit. Dr. Chénier resided at Saint Eustache. He was the son of a *habitant* of Longueuil and having studied under Dr. Labrie, had the reputation as a medical man of being skilful in his profession. In 1828 he had established himself at Saint Benoit. Three years later he had married the daughter of Dr. Labrie, and on the death of his father-in-law had removed to Saint Eustache. It is stated that at the time of his death he was 31 years of age, and had one child. His apologists explain his conduct by saying that the example of Dr. Wolfred Nelson had led to his determination not to be arrested without resistance. It is astonishing that so little is known of one whose name is still brought to notice from the part he took on this occasion. During the last few years he had been prominent in the local politics of the place. He was a firm believer in the politics of Mr. Papineau and had attracted attention by his impassioned harangues,

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\* [S'y enivrèrent bruyamment.]

by his revolutionary opinions and by the violent declamations, in which on every occasion he indulged. There is no reason to doubt that Chénier was sincere; and it is as little to be questioned that he was ambitious to obtain distinction: but his conduct was characterised by vehemence, not by judgment. When the crisis came, he shewed courage and determination, and it is all that can be said in his favour.

Chénier was not the principal figure in the movement. Amerry Girod, the Swiss, of whom mention has been made,\* presented himself at Saint Eustache at this date declaring that he had been sent by Mr. Papineau to assume the direction of affairs as general-in-chief. His plausibility, his boldness in the absence of danger, his unblushing mendacity, his unabashed impudence gained for him the recognition of his pretensions. Chénier, who knew little of the world outside the village where he had lived, succumbed like others before the showy pretensions of the man, and became his second in command as major.

Girod and Chénier had accompanied the insurgents to the Indian mission of the Two Mountains. There they rifled the government stores of all that was necessary to their purpose, especially in the way of guns and ammunition. These they took with them to Saint Benoit. They proceeded to call on the superior of the mission, M. l'abbé Dufresne, and in spite of his protest carried off a small 3-pdr. gun. Their next effort was to obtain two small cannon and other small arms from the Indians, but with all his cunning, Girod failed to convince the chief that he should comply with the demand to give them up, and the Indian shewed such determination to resist any attempt to remove their property by force, that the insurgents departed without the arms they had demanded.

On Friday, the 1st of December, Dr. Chénier came to the presbytery, accompanied by one Guérin, to ask for the keys of the convent, a building that had been lately erected east of the church. Although prepared in a general way for the *religieuses de la Congrégation*, they had not,

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\* [Ante, IX., p. 564.]

at that date, entered upon possession, and the building was unoccupied. The *curé* refused the request as one that neither duty nor honour permitted him to grant. Chénier therefore, took possession of the keys by force, and forthwith established in the building a camp of the insurgents who were arriving from the other parishes. The following day was devoted to visiting the houses in the village and neighbourhood and forcibly seizing all the provisions that could be found. About 60 persons had been established in the convent. The member for the county was Mr. Scott, who had generally sustained the political course of Papineau, but was not, however, prepared to advocate insurrection. He accordingly proceeded to the convent, and exhorted those present to abandon the dangerous course they were following. His address had the effect of leading many to return home. The more violent remained and were greatly irritated against Scott. They waited upon him and demanded, with the threat of personal violence should he fail to comply, that he should place himself at their head. He absolutely refused. Many of those present started for the Grand Brulé to obtain further assistance. Mr. Emery Féré, who had accompanied Mr. Scott, was the brother-in-law of M. Paquin, the *curé*, and had been held by them a prisoner. Finally they had allowed him to go to the presbytery.

The 3rd of December was a Sunday. After high mass a meeting was held at the convent. Scott was forced to speak, and he repeated his good advice. Several called upon the *curé* for his views. It is almost needless to say, that he exhorted them to retire peaceably to their homes. That afternoon the proclamation of sir John Colborne was attached to the church door, when it was read by the vicar, M. Desève. A great impression was made on all who heard it, but there were in Saint Eustache some young men from Montreal who exerted themselves to excite the passions of the *habitants*, and to annul the effect of what the *curé* had said. Two of these, Hubert and Peltier, had arrived after the affair at Saint Denis. They had announced that the insurgents were the

conquerors in all directions, and the troops so routed and scattered in flight, that there were none to be sent to the north. Falsehoods of this character, unscrupulously disseminated to deceive the *habitants*, must explain the influence which the agitators obtained. They had been joined by the two brothers Lorimer, one of whom was doomed to die on the scaffold for his conduct in 1838. Every attempt was made to awaken the worst passions of those present by incendiary addresses. But the contrary result was effected; all who were present separated and returned home. One young man only remained in the convent. The ecclesiastics endeavoured to induce him to leave the building, so that it might be closed, but he refused on the ground that the inhabitants of Grand Brulé were coming to take possession of it, and this proceeding shortly afterwards occurred.

That afternoon, after vespers, M. Turcotte, the *curé* of Saint Rose, came to the presbytery with the news of Saint Charles, and the total dispersion of the insurgents. M. Paquin, trusting that this intelligence would lead Chénier to desist, sent for him. On his arrival he found others present; Mr. Scott, the member, his brother from Saint Thérèse and M. Féré. All present implored Chénier to cease his encouragement of the insurrection. He was informed that the movement was entirely quieted on the Richelieu, and the cause hopeless. M. Paquin was particularly emphatic in his counsel, but Chénier could not be moved. He denied the truth of the statement, affirming that there had been no reverse. On the contrary, that *les patriotes étaient vainqueurs*; and Chénier added, that his resolution was unchanged, that he had determined to die with arms in his hands rather than surrender. He declared that one might as well attempt to seize the moon by the teeth, as to try to change his purpose.\*

Dr. Chénier could not, however, conceal his emotion. From time to time the tears rolled down his cheeks, in despite of

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\* [Qu'autant valait essayer de prendre la lune avec les dents que de chercher à ébranler sa résolution.—*Journal historique*, p. xii.]



every effort on his part to suppress them and he appeared quite unnerved. Owing to the courage shewn by Chénier, which led to his premature death, the amiability of his character, and the respect in which he was held by those with whom he lived ; moreover from the desire to find some one of prominence to contrast with the many who can claim neither sympathy nor consideration for the part they played in 1837 and 1838, a high reputation has been assigned to Chénier which, in my judgment, he in no way merits. A statue has even been erected to him in Montreal as an attempt to give dignity to his political life : equally a deception. There is no known portrait of Chénier. I cannot learn that any ever existed, and he was killed before the days of the daguerrotype. The statue represents the poetic conception of a young French Canadian in a melodramatic attitude, in a costume one would expect to see at the theatre of the Porte Saint Martin in Paris rather than in actual life in the province. The figure might be assigned with equal propriety to any other name which came into prominence on that occasion. There, however, this figure stands, in Viger square, with the simple inscription, "Chénier." It does not relate all the grief and destruction that the individual thus commemorated brought on the villages of Saint Eustache and Saint Benoit ; nor does it record the sorrow and despair of the families of the 72 corpses, found in the ruins of the church, the convent, and other buildings of Saint Eustache.

Chénier knew perfectly well of the crushing defeat of Saint Charles. It came to him accredited by the proclamation read after vespers ; and the information was succinctly communicated in presence of men friendly to him, two at least of whom entertained some of his political opinions. He was warned of the hopelessness of any attempt against the forces of the government by the few undrilled, hastily armed men he could collect. But all was of no avail. Chénier would listen to no counsel ; he rushed onward to his own fate to meet destruction. But what was worse, by his influence and misrepresentation, he dragged down whole

families to poverty and misfortune, and spread ruin and want where there had been ease, comfort, plenty and happiness.

So impressed was the *curé*, M. Paquin, with the mischievous determination of Chénier and its dangerous consequences that he determined with his brother-in-law, Féré, to proceed to Montreal and lay the case before sir John Colborne. But he was forestalled by Chénier. As he was preparing to depart, he was informed that the approaches to the village were held by scouts, who would allow no one to pass without an order from him. During the night Chénier had sent emissaries to the most determined of his partisans to proceed to Saint Eustache, and there take the duty he had assigned of preventing all egress. The *curé* accordingly applied for a pass, but it was refused.\*

Shortly afterwards Chénier called upon the *curé* to explain his conduct. He carried a drawn sword. M. Paquin dwelt at length upon his conduct, pointed out the misery and sorrow he would bring upon the village and the people, and concluded by saying, "I accuse you before God and man of being the author of these misfortunes." Chénier replied that the *curé* was the cause that the parish viewed the movement with such coldness. It was his duty to place himself at their head when they went out to fight, and give them absolution. The *curé* treated the demand with indignation, and declared that in spite of Dr. Chénier he would find his way to Montreal; upon which Chénier told him, that if he could find no one to arrest him, he would himself do so.†

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\* One of these passes has been preserved.

Passe à Fleury Tison,

4 Décembre, 1837.

J. O. CHÉNIER, commandant.

† I deem it proper to give the original text of this passage. [*Journal Historique*, pp. xii., xiii.] "Le Dr. se rendit au presbytère, l'épée à la main, pour accompagner son refus de quelques explications, et dit qu'il se croyait obligé de s'opposer à ce voyage qu'il croyait devoir être nuisible à sa cause. M. Paquin eut alors avec lui une conversation longue et animée dans laquelle il insista fortement sur la folie de la conduite du docteur, il lui représenta tous les malheurs qu'il allait attirer sur la paroisse, le village serait brûlé et pillé, toute la paroisse saccagée, etc., etc. Après avoir fait une peinture touchante des maux qui allaient

On the following day M. l'abbé Ducharme, *curé* of Saint Thérèse, visited Saint Eustache. While he was at table at one o'clock the church bell rang the tocsin of alarm. News had been brought of the advance of the troops. The greatest consternation was created. The number of the insurgents present was always varying, and there were not more than 60 in the convent. They were called out on the square before the church, looking pale and terribly in fear.\* Ducharme returned home; the *curé* and his *vicaire* left for the *domaine* of M. Dumont, a mile and a half from the village. They were stopped on their journey, but finally were allowed to proceed, on giving their word that they would not leave the parish.

The tocsin brought together a number of the people of the village, among them Girod. He was much irritated that the ecclesiastics had been permitted to leave. He sent three men to order them back, with instructions to kill them if they refused to comply. The three reached the *domaine*, armed with guns, and scythes transformed into swords, and repeated the orders they had received from Girod. M. Paquin replied that in no way he recognised the authority of M. Girod and refused obedience; so the emissaries returned alone. They were received with reproaches and insult, and were ordered to repeat their visit and bring back with them the priests: in case of refusal to kill them, a fact learned on the following day. The priests owed their lives solely to the

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fondre sur St. Eustache, M. Paquin ajouta avec émotion : "Je vous accuse devant Dieu et devant les hommes de tous ces malheurs !" "C'est vous, M. le curé, que j'en accuse à mon tour," répondit le Docteur, "vous nous avez nui extraordinairement; vous êtes la cause du refroidissement qu'éprouve la paroisse en ce moment-ci. Vous devriez être à notre tête quand nous irons combattre, pour nous donner l'absolution."

"Nous, faire une semblable acte," reprit M. Paquin, "non, jamais, ne l'espérez pas; ce serait agir contre notre propre conscience, contre les décisions de l'église et contre les intérêts du gouvernement et du pays. Cette absolution vous damnerait en vous perdant vous-mêmes." Cette conversation eut lieu en présence de M. Desèves, du Dr. Brien de St. Martin, et de plusieurs habitants de la paroisse, M. le curé finit en disant qu'il saurait bien se rendre à Montréal et que personne ne l'arrêterait. "Eh bien," répondit le Dr. Chénier, "s'il n'y a personne d'assez brave pour le faire, moi-même je vous arrêterai." [p. xiii].

\* [Horriblement pâles et leur figure annonçait une crainte profonde.]

remnant of respect still entertained for their status as ecclesiastics. They again asked permission to proceed to Saint Rose, and it was refused.

On the 6th, Girod sent 25 men to destroy the bridge at Saint Rose over the River of a Thousand islands, the property of Mr. Porteous, in order to prevent the march of the troops to attack the insurgents. There was a report spread that he had cut away Lachapelle's bridge at Bord à Plouffe, but that was a feat above his power. Not only was a detachment placed to guard it, but the whole of the inhabitants of Saint Martin would have risen up against any such attempt, as an act of the greatest injury to their village. The bridge at Saint Rose he succeeded in making impassable.

On the following day M. Desèves went to the village to perform mass. A great many were present at the ceremony. On entering the presbytery, after the service, he found it occupied by many of the insurgents who had been living on the provisions of the *curé*. He was informed that Girod was present. He found Girod studiously courteous making many inquiries regarding the *curé*. Shortly afterwards, with Dr. Masson, of Saint Benoit, Girod called on M. Paquin. He expressed regret that the *curé* had been addressed with rudeness by the men he had sent, when it was well known they had only acted by his orders.

The following day, the 8th, was the Immaculate Conception. There must have been 1,500 people collected in the village. No opposition was made to the services in the church, which indeed were regularly continued from that date until the report of the arrival of the troops. After the service, those who were assembled visited the village and neighbouring concessions in different parties, exacting the delivery of such provisions as they could obtain, whether granted willingly or not. They took in possession cattle, horses, and vehicles to carry away their plunder. A *habitant* of Saint Rose, one Kempton, had to give up 26 oxen. On the river Duchène they exacted from one Lefèvre the use of his horses to carry away their booty. The owner, to prevent

his animals being ill-used, accompanied them; and this act, suggested by his prudence, subsequently led to his arrest.

The 10th was a Sunday. The church was full, but of the insurgents only. Those opposed to them dared not come to the village for fear of being seized, and forced to join the revolt. The residents of the concessions stayed away and hid themselves in the woods, in some instances to the number of 50 or 60. Girod during the day made a violent address. There was no occupation for those who had come together in the village. They laid their hands on all the strong drink they could find, and pillaged and insulted the inhabitants. No attempt was made to drill them, or in any way exercise restraint. Girod, it is true, furiously declaimed against the excesses, and threatened to shoot any one who was found pillaging. His own proceeding he justified by the necessities of the case, with a statement that all would be repaid when the provisional government was established.

The *vicaire* Desèves has left an account of the mode of life pursued by this crowd, subjected to no control, with time hanging wearily on their hands. They considered they had the right to do as they pleased. Their theory of patriotism was idleness and enjoying themselves. Often, he tells us, they were seen passing through the village in knots of five and six, carrying rusty guns out of order, a *bonnet bleu* hanging half down their backs, with small black pipes in their mouths, blowing forth clouds of smoke. Generally they wore leather mittens, and were dressed in *étouffe du pays*. Their walk shewed how heavily they had been drinking. Indeed, their sole occupation was to steal, drink, eat, dance and quarrel. Their chiefs, knowing that good cheer was the best means of keeping them together, had gathered provisions enough to last the winter.

These unfortunate men lived in perfect security: they did not at all expect that their camp would be attacked. They were told that the troops dare not come to Saint Eustache, that only volunteers were at Saint Martin; that the insurgents had only to shew themselves to be victorious, and that they



would take Montreal without drawing a trigger. It was by these means they kept the number together. Those who were present had plenty to eat and drink, and a pound of beef was daily given to every one who had a family, to send home. They clothed themselves by pillage, helping themselves to all they thought useful to them. Not only this, but they were promised the possession of the lands held by the loyalists, that the *dîme* of the church should no longer be asked, and the payment of the seigniorial tenure should be abolished.

The gathering at Saint Eustache was quite independent of that of Saint Benoit. The inhabitants of the latter parish knew that Saint Eustache would be attacked first, and that the people of Saint Benoit would see the result of the combat, and could govern themselves accordingly.

On the 11th an alarm was given that some troops had been seen on the opposite shore. It was a picket of artillery under captain Glasgow, sent to observe if passage over the ice were practicable. There was great excitement, the insurgents turned out, the tocsin sounded, and preparations for resistance were made. Seeing the few men of whom the picket consisted, some parties proceeded to cross the river, but it rapidly retreated after its reconnaissance. As the *vicaire* passed the men in front of the church, he could not but observe the ridiculous figure they presented ; few had guns, the majority having only sticks and stones. There were at this time not more than 400 people in the village, for since the ice had formed, large parties every day had abandoned the place, in order to avoid taking part in the outbreak.

From this date \*the priests were not allowed to leave the village. It was difficult to explain Girod's policy in this proceeding, for the presence of the ecclesiastics was not to his advantage. Their own feeling as loyalists was very strong, and they saw the utter madness of the attempt of resistance by the unarmed mob constantly coming and going. Several of the *habitants* complained to the *curé* that they had been forced against their will to be present. He told them to remember the English proverb : " You might lead a horse to

the water, but you could not make him drink." Those *habitants* who had hesitated to join the revolt were met by the threat that their property would be burned. Great numbers had been driven to take part in the outbreak under these circumstances. It was such as these who escaped when the attack commenced.

On the 12th M. Paquin received a visit from M. Chartier, the *cure* of Saint Benoit, who had given his violent support to the insurrection. The *cure* shewed Chartier a letter from the bishop, in which his conduct was much blamed. The perusal did not depress his enthusiasm. After partaking of the simple repast that the *cure* could give him, for M. Paquin's provisions had been taken to feed the crowd that was assembled, Chartier went out to the camp of the insurgents and made a most violent address, encouraging their conduct, after which he returned to Saint Benoit.

A party that day went to Saint Rose to obtain recruits, but the inhabitants of Saint Rose had heard of their excesses, and literally drove them from the village, threatening to bring the troops upon them.

The leaders had constantly promised that an attack would be made on Saint Martin. On an occasion when 1,500 were present they demanded to be led there, but Girod declined so to act. What was most astonishing was the extraordinary indifference shewn by the insurgents regarding their future, and the security in which they continued to live. No attempt was made to fortify the approaches. All that was done was to send 50 men over the river to occupy a tavern at the cross roads leading to Saint Rose and Saint Martin, under the command of Chénier. They came back next day to report that all was quiet. A guard remained at this place at night, and returned during the day. No one shewed more recklessness than Girod himself. He declared, "I would be only too glad if the military would attack us, for twelve hours afterwards we would be in Montreal."

The 13th came, the day of the departure of the troops from Montreal. Extraordinary rumours had reached the city of

the numbers who had assembled and of their organizations. It was reported that they possessed cannon and arms, and there was ground for expectation that they were prepared to offer a desperate resistance. It was from the information received on this point that sir John Colborne had delayed his departure, until he could take the field with a perfectly efficient force, capable of meeting the formidable numbers he had been led to believe were in arms, prepared to defend themselves with desperation.

This movement of the troops in no way lessened the sense of security that reigned at Saint Eustache. M. Chartier had come over from Saint Benoit. After breakfasting with the young men prominent as leaders, he made a violent address to the assembled *habitants*. The *curé*, M. Paquin, was indisposed and had remained at the *domaine*. Thither Girod and Chartier proceeded, with the real design of learning if the *curé* had received any intelligence from Montreal. M. Paquin demanded leave to retire from the village to Saint Rose, but the permission was refused. On their return to the village the supporters of the revolt were assembled, probably 800 in number. Girod addressed them with his usual virulence, and inflamed their passions by shameless falsehood and misrepresentation, in accord, as M. l'abbé Desèves writes, with "*son effronterie ordinaire*." M. Chartier followed in a discourse, distinguished by everything but what became the utterance of a priest. It is very certain that this pestilent ecclesiastic had not a single imitator among the priesthood of the province, the *curé* of Saint Charles excepted, but his interference was more passive than active. Girod had the impudence to ask the *vicaire* to pray for him, as he (the priest) could not be among their enemies. "The priests," replied M. Desèves, "are the enemies of none."

Girod and Chartier started for Saint Benoit, where a council of war was held, to determine if Saint Martin should be attacked, so ignorant and indifferent were these men to the extraordinary preparations Colborne was taking at that very hour to crush them. Finally it was decided that the following

night the movement should be made. That night the insurgents, to the number of 1,000, marched through the village, headed by the band they had extemporised, consisting of drums and violins.

On the 14th mass was said by M. Desèves. The report was afterwards spread that a grand mass had been chanted for the success of the insurrection. The report was groundless. On that day it was simply the ordinary daily low mass. There had been a high mass some time previously, but it was for the re-establishment of peace and order. It was the last day that many then present would attend any ceremony, for before nightfall their doom had been irrevocably pronounced. Of those unhappy beings gathered together in the village, seduced into their present position, many by fraud, many by strong drink, numbers would never see the light of another sun.

On the previous day, the 13th, sir John Colborne had left Montreal ; he had so carefully equipped and constituted his force, that it was of strength to crush a movement of twenty times the extent of the puny resistance he was to experience. Sir John Colborne was himself in command. His column consisted of the 1st Royals, lieutenant-colonel Wetherall ; the 32nd, the hon. lieutenant-colonel Maitland ; the 83rd, lieutenant-colonel Dundas ; a strong force of artillery with 8 field-pieces, under major Jackson ; the Queen's Light dragoons, the provincial troop of captain Walter Jones ; the Montreal volunteer cavalry, the Montreal volunteer rifles, and Globensky's volunteers. This force numbered 2,000 men. It had left Montreal amid the vehement cheering of the citizens, and marched that day to Saint Martin, where a detachment had been quartered to protect the Lachapelle bridge. A crowd of followers, as is always the case, accompanied the column to render what service they might be called upon to perform, many led by curiosity, a few possibly by the prospect of pillage. There was also a long line of provision and ammunition waggons, with tools and workmen to repair any bridge, or re-establish structures

where necessary. The expedition had in every respect been carefully prepared.

On the morning of the 14th, the column marched northward to the River of a Thousand Islands. The river had been frozen over some days, but the passage across was a somewhat hazardous proceeding, for the ice was not good. Indeed some of the guns did break through, but were extricated. The main shore was reached about four miles to the east of the village. The column proceeded along the Saint Rose road until within a short distance of the church, where a halt was made. Globensky's volunteers had followed the shorter route from Saint Martin, and had arrived opposite the village, before the main body had reached the north shore. He had waited to see the main force safely across before he himself attempted the passage of the river. This company was the one first seen by the insurgents. Girod holding that it constituted the whole force, and did not exceed 80 men, called for volunteers to attack it. Chénier advanced on the ice at the head of 150 men, in the belief that it was the only body to be encountered. He was awakened from this pleasant view of the situation by a discharge of artillery from the north shore, where the whole force had come into view. Chénier's volunteers immediately fell into disorder, the whole number running away as fast as their legs could carry them. Globensky's detachment then passed by the river bank above the church, and crossing the mouth of the little river Duchêne, ascended the eminence towards the road, and there took up a position.

The main body wheeled to the right to enter the village by a small lane, to the north of the main road, parallel to it and some few hundred feet south. As they entered the street at right angles to the road, facing the church, the artillery was moved to the point opposite the house of Dr. Labrie, the site of which is now owned by M. Paquin. The place was found to be too much exposed to the fire from the upper windows of the organ loft, of the *jubé* of the church. The insurgents occupied the church under Chénier. The convent, the



presbytery, the house of Mr. Scott were also held by the insurgents, from which a discharge of muskets was vigorously kept up. Chénier had forced many unwillingly into the church to take part in the action. He had barricaded the doors with the stove and benches, breaking the windows of the *jubé*, that they could fire through the broken glass.

The guns were accordingly moved back some distance to the end of the road. From this point a discharge was kept up from the field-pieces and musketry. The attack commenced about half-past eleven. A great many of the insurgents who generally made their halting place at Saint Eustache were absent, for no attack was expected. So soon as the troops appeared, many who had remained took to flight across the fields and gained the woods. It is considered, after exact inquiries, that not above 250 remained to resist the attack. Several of those who had accompanied or joined Chénier in the church were without arms. The number as present is named at 80 men. It is said that on the fact being represented to him, he answered, coldly, that there would be men killed, and those without arms would then obtain them. The speech has been quoted as a mark of heroism. To any one of the least sense, it can only be regarded as the reply of a reckless fool. Even conceding to him the right to sacrifice his own life in the mad crime of a purposeless resistance against a force he could not withstand for half an hour, there can be no justification for his dragging to ruin with himself the men he had beguiled by misrepresentation, and whom in many cases he forced into an unwilling resistance.

Before describing the affair, it is well to narrate the conduct of the young men from Montreal who had actively figured as leaders during the previous fortnight. Féréol Peltier, Hubert, the two Lorimers left Saint Eustache with all possible speed on the appearance of the troops, and were not again seen. Girod remained until he had seen the men posted in the four buildings. Obtaining a horse, he stopped at the house of Mr. Eugene Globensky, which he had occupied as his quarters,

to put together property of some kind that he had left behind. Afterwards he hastened away towards Saint Benoit. Two of the men seeing his flight tried to shoot him. Without stopping he galloped for three leagues until he reached Inglis' tavern. He there saw Mrs. Inglis, who was surprised at his presence. He called for liquor. While swallowing a heavy draught of spirits, Girod declared the insurgents were victorious, and that he was seeking re-inforcements entirely to crush the troops. As by that time a part of Saint Eustache was in flames and the reflection and smoke were visible, Mrs. Inglis asked, if this was the case, why set fire to the village. Girod, never at a loss for a lie, answered that it had been necessary in repelling the troops to burn some of the buildings.\*

At the date of the revolt, the topography of Saint Eustache was not what it is to-day. The modern presbytery is on an approximate line with the church. At this time the building was in advance, forming the west of a quadrangle, which extended in front of the church and convent, on the eastern side of which stood the seignorial house. These buildings were all occupied by the insurgents, as was likewise the house of Mr. Scott on the opposite side of the street. Under this protection a musketry fire was poured upon the troops. On their side, the field-pieces and musketry were vigourously turned against the buildings. Little impression was made against the masonry of the church. Although the interior was burned, the walls were uninjured, and on its restoration the work was completed generally on the skeleton of the old structure. The façade still retains the marks of the round shot and bullets with which it was struck on that day.

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\* For a few days Girod escaped arrest and reached Point-aux-Trembles, doubtless with the design of finding his way to Varennes. The pursuit, however, was so unceasing that on the 18th, the fourth day of his flight, seeing himself so surrounded that he could not avoid seizure by the police, he blew out his brains with the pistol he was carrying. His body was brought to Montreal. He was buried at what was then called the Côte à Barron, in the middle of the cross roads of the Saint Lawrence Main street and Sherbrooke street. I am informed by Mr. Henry Hogan, of Montreal, that as a young man he was present at the interment.

In an hour the insurgents were driven from their position. Many took to flight. The village, however, was surrounded, and escape was possible only across the ice. In the haste of abandoning the priest's house a lighted stove was upset. Several mattresses had been placed before the doors and windows for protection. The lighted wood brought in contact with them led to the building bursting forth in flame. It was rapidly consumed. It was the fire from the presbytery that was communicated to the church. The troops were now in possession of the other buildings, and shortly afterwards they were in flames. As the church door was forced and the troops entered, Chénier saw all was lost. He was greatly agitated. "We are done," he said, "we are lost. Let us jump from the lady chapel, and we will hide ourselves beneath the bridge in the cemetery." They went towards the chapel on the east side, and passed out of the windows to gain the ground beneath. As he was leaving the church, he was struck by a ball and fell dead.\*

The number of killed on the part of the insurgents is mentioned as 70. Most of those who fell were from Saint Scholastique and Saint Jerome. There were few belonging to Saint Eustache. The parties from Saint Benoit, who had on occasions swelled the numbers, took no share in the action. By four o'clock all tumult had entirely ceased, but unfortunately a great part of the village was in flames. Some half burned corpses were afterwards found in the ruins. Several prisoners had been taken and placed under guard.

On the following morning, at nine o'clock, the column marched for Saint Benoit. It had been reported in Montreal

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\* "Il dit à ses compagnons d'un air triste, d'une voix tremblante, tant il était agité par l'émotion et la grandeur du danger de sa position : 'Nous sommes flambés ! nous sommes perdus ! sautons par la fenêtre de la chapelle de la sainte vierge, et venez vous cacher avec moi, sous le petit pont du fossé qui traverse le cimetière.' M. Paquin dans ses mémoires autographes dont nous avons inséré dans cet ouvrage les parties les plus saillantes raconte ce drame émouvant et navrant de la bataille, et il ajoute : 'Chénier lui-même sortant de l'église en disant, c'est fini, sauvons-nous' fut percé d'une balle."

[Rebellion de 1837 à Saint Eustache, C. A. M. Globensky, p. 319.]

that the village was fortified and would be defended by several thousand insurgents. There was some slight attempt to construct a barricade of brush, and one or two shallow ditches had been dug, the whole scarcely worthy of remark. The news of the defeat at Saint Eustache had led all the chiefs to run away. The priest, M. l'abbé Chartier, was at Saint Eustache when the troops appeared. He would not wait to get his sleigh ready, which was at Dr. Chénier's house, but started on foot. At a short distance from the village, a *traineau* with two women and five or six children was passing, into which he threw himself. Finding that it made but little progress, he again took to his heels, till he reached the concession of Petit Chicot, where he obtained a sleigh to Grand Brulé.\*

As sir John Colborne was leaving for Saint Benoit he was addressed by a deputation of 14 of the inhabitants of that place. They had been induced to make this act of submission by M. l'abbé Dufresne, the superior of the mission of Two Mountains. Sir John Colborne asked where the chiefs were. On being told they had all fled, he dismissed the deputation, instructing them that the arms of the inhabitants were to be surrendered, and threatening that if a single shot were fired Saint Benoit would be abandoned to fire and pillage; upon which the column continued its march.

The deputation returned to Saint Benoit with the report of their mission. The inhabitants asked no better conditions. There were no leaders to direct them, for they had all fled. On the arrival of the troops, the arms were surrendered and those who were present submitted themselves to sir John Colborne. He sent them to their homes, it may be assumed, repenting the folly of having undertaken to oppose the force they saw marshalled against them.

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\* Chartier managed to escape to the United States. His conduct was subsequently investigated by Mgr. Bourget, the consequence of which was he was interdicted. He found his way to Vincennes, where he acted as a priest. Although he could have returned to Canada under the amnesty obtained by sir Hypolite Lafontaine, the censure of the episcopate remaining unremoved, he being unable to re-assume his ecclesiastical duties, never came back to the province.

The column returned to Montreal on the 16th. The loss had been : 1 private killed, 1 corporal and 7 privates wounded. Colborne halted a night at Saint Benoit, where he occupied Mr. Girouard's house. On his arrival white flags were hung from every house, as a token of submission, and he had found 250 men drawn up bearing the same colours.

During this time colonel Maitland, with a strong detachment, had proceeded to Saint Scholastique. The most unlimited submission was made. Colonel Maitland reported that at least 600 persons were assembled in the village, half of whom were bearing white flags, and they all received the troops with cheers.

Those only who had come into prominence as fomenting the rebellion were arrested. The total number of prisoners marched to Montreal, including those who had been taken at Saint Eustache, was 106.

It is a matter of painful record that the greater part of the village of Saint Benoit was destroyed by fire, including the church and the priest's house. The fact was reported by major Townsend, of the 24th, who had marched from Carillon with some companies of his regiment and the Saint Andrew's volunteers. "No exertion," wrote Townsend, "on my part, was spared to save as much as possible, but the irregular troops employed were not to be controlled, and were in every case, I believe, the instrument of the infliction." The explanation has been offered, that many who were serving in the ranks of the volunteers had been themselves ill-treated and plundered by the insurgents during the preceding months, and they retaliated in this unhappy manner for the injuries they had received. It is the unfortunate contingency in civil commotions that it is not always those that sow the seed of discord who reap the harvest of their misdeeds. They often drag down the innocent and unoffending. Consequently, much private injury is inflicted to satisfy a feeling of resentment, in creating which they had no part. Even the violence shewn by the inhabitants of Saint Benoit does not furnish a satisfac-



tory explanation of the remorseless treatment the village received. An attempt has been made to throw an indirect responsibility on sir John Colborne, from his having given orders for the houses of Girouard, Dumouchelle, and Masson to be burned. I cannot find the slightest authority for this statement, and, in my humble view, it must be rejected. It was an act of rage on the part of the loyal population of the district.

The troops were received in Montreal by prolonged cheers, crowds accompanying the whole march testifying the enthusiasm deeply felt for the important service they had rendered. The insurrection in Lower Canada had experienced so severe a check that it was believed it would not again make head. There was, however, no relaxation by the British party of the means of defence. Montreal became a large camp, in which half the population were performing duty as soldiers. The insurrection was believed to have still wider ramifications than it really possessed. Although the *ignes suppositi* were not wanting in strength, they were believed at the time to be more general and to possess greater force than was really the case; nevertheless, it is true that the disasters experienced by the insurgents destroyed for the time all sentiment of rebellion. There was a visible reaction throughout the country, and in many localities, where no expression of these opinions a few weeks earlier would have been tolerated, the supporters of the government were enabled to hold meetings, and pass resolutions declaratory of their loyalty. It may indeed be said that Saint Eustache was the close of the first phase of the insurrection.

I have felt it incumbent on me to describe in some detail the events as they took place in Saint Eustache during these 20 days, the period during which those adverse to the government were left without interference, for it appears to me to represent the true character of the rebellion of 1837. The query if the movement was provoked, can meet a reply only in the preceding facts I have presented. The political element of the discontent which gave rise to the agitation must be

judged solely by those principles of constitutional government that few will now dispute. It is by these ethics that the demands of the assembly must be considered, a consideration totally apart from the subsequent impotent, reckless appeal to arms; an appeal by a few hundred impassioned men, regardless of the danger they were incurring, ignorant of the opposition they must experience, and totally without forethought, provision, or preparation to meet the struggle. In my humble judgment it is a misnomer to attribute the rebellion to a war of race, which many superficial, and mere party writers endeavour to establish. It is true that, with few exceptions, the actors were French Canadians, but they must be regarded, not as representative of the whole people, but as limited to the extreme supporters of Mr. Papineau and of the majority of the house. The province had been systematically excited for years, by an agitation leading to the belief that the "grievances" by which the people were afflicted threatened their extermination, and they constantly heard violent appeals to resist a policy designed to destroy their customs, their language, their faith, their individuality. There was neither truth nor reason in all this declamation; so that when the hour came that the agitation was pushed to extremes, it was found that men of thought, education and respectability, who had anything to lose, ceased to sustain Mr. Papineau in his violence. His influence while it lasted remains one of the remarkable circumstances of our history. In all societies it was the same, he exercised a personal persuasion few could resist. It is said the *beau sexe* in many instances were not insensible to his fascinations, *en tout bien et tout honneur*, be it said. What was of greater consequence than his social success was, that, in political life he exercised a control in the constituencies, so complete that no one unsustained by his favour could hope for election. It was the secret of the support he received from the younger men entering public life. But it became another matter when the agitation assumed the seditious and dangerous form it was taking. The fact is plainly estab-

lished in the resolution passed at Saint Denis and in Mr. T. S. Brown's admission\* of the absence of prominent names at Saint Charles. What makes the fact more apparent is, that no French Canadian of position and character presented himself as a leader when resistance assumed a dangerous activity. Nelson is the only man remembered at Saint Denis. Mr. T. S. Brown was at least the nominal leader at Saint Charles, and Girod, a Swiss adventurer, was the controlling spirit at Saint Eustache. Be it said also, so far as is known, that not an English-speaking person was present with the insurgents.

Dr. Chénier, of all who fomented the insurrection, was the solitary example of any one of any position in the social horizon who dauntlessly carried out his theories. It is this one fact which, with all his errors, has preserved for his name respectful mention. The mere spouters of sedition, when the hour of danger came, disappeared like flies in a Canadian winter.

Under this aspect the insurrection of 1837 is not a *souvenir* in our history that any of us should treasure up. That it greatly injured the country, few can deny. It is not true that we owe to it responsible government, for Papineau remained to the last its opponent. There may be ground for the assertion that without some such convulsion the union of the provinces would not have been consummated at that time. The prejudice of the French Canadians on this point is shewn by writers of to-day, who complain that it affected them as a community. Granted that such may be the case, this proclaimed wrong can be set aside in the truth that it took them out of their insignificant parish career, and was the first step to the inauguration of the wider and more elevating policy, which ended in the formation of the dominion. It opened a career to every man, whatever his national origin, to attain the first place in his native land, a position of honour and dignity, which never could have been attained in a small

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\* [Ante, p. 17. Report of the meeting at Saint Denis, and p. 64 relating to Mr. T. S. Brown's letter to Dr. Nelson.]

province. It gave the promise that has been fulfilled, of creating British North America, in the true sense of the word, a country, not a petty suburb of provincial narrowness, and it has led to the formation of what we are, an integral part of the great British empire, in which we enjoy the freest institutions on the soundest constitutional principles. We have only to be true to ourselves in the development and enjoyment of the prerogative of self-government we possess, to remain among the most envied of nations. No error is so great as to trace our condition to the rebellion. It undoubtedly took its rise in the events which followed that unhappy period. For it is to the union of the province, that established the form of government we possess, and conferred the power of directing our own affairs with becoming consideration of imperial interests, that we owe our present well being; and such a union was the last thought of the instigators of the rebellion either in Lower or Upper Canada.

The events in Lower Canada had not been regarded with indifference in the maritime provinces. The news that the insurrection had broken out created a profound sensation in Nova Scotia and New Brunswick, and hundreds of volunteers offered their services in the field should it be found necessary. In Upper Canada the lieutenant-governor, sir Francis Bond Head, issued a general militia order, authorising the militia regiments of eastern districts to march to Lower Canada. In Glengarry 2,000 men were organised, and had assembled at Lancaster prior to marching into Lower Canada. They had designed to start on the 21st of December, when sir John Colborne notified them that the rebellion had been put down, and that he did not desire that at that time they should march from their homes. He gave them, also, his warmest thanks "for their exertions and activity in this critical period."

Lord Gosford's resignation was officially accepted on the 27th of October, and the fact was communicated to sir John Colborne. On the 6th of December lord Glenelg wrote him at length, telling him that the temporary administration of the government would devolve upon him, and that additional

troops would be sent in the spring. The news of the actual revolt had not then reached London. The province was, however, recognised to be on the verge of a rebellion, and Colborne was authorised to avail himself of the aid of the volunteers who would offer their services, and to declare martial law "with caution and reserve," should this ultimate recourse be necessary. The fullest support was promised him in the discharge of his trust.

The news of the acceptance of lord Gosford's resignation reached Quebec only on the 13th of January. He did not, however, leave the province until the 26th of February. In the month that he remained at Quebec addresses were sent him from the city and county of Quebec, and from the neighbouring parishes. No address was sent from Montreal, shewing that these marks of respect to a departing governor-general are not a mere form. It is said that his departure was considered in many instances such a relief, that there was an illumination in many parts of the city, and transparencies were exhibited, congratulating the country that his rule of conciliation no longer prevailed.

On the 8th of January Mgr. Lartigue, of Montreal, issued a second *mandement*. Three weeks had passed since the event at Saint Eustache had finally determined all question of resistance. The *mandement*, accordingly, may be accepted as the deliberate view taken by the clergy of the attempt. I have mentioned the two exceptions at Saint Charles and Saint Eustache, where the least countenance had been given by the priesthood to the revolt. The bishop spoke of the misery that had taken the place of the abundance and happiness which had been enjoyed before brigands and rebels by sophism and falsehood had bewildered the population. What remained of their promises but burned churches and houses, the loss of their friends and the poverty of many. The churches had been burned ; but the fault lay with those who had propagated the rebellion, and had dared to seize the church as a fortress. They had turned a deaf ear to the clergy, who had warned



them against the danger of listening to the *coryphées d'une faction* with whom they had become infatuated. The insurgents had known the order given to administer the sacraments of the church to no one, without reparation of his faults ; and that religious interment should be refused to any one who had failed to render this reparation.

The 20th of February was observed as a day of thanksgiving for the termination of the rebellion and the restoration of peace. On that day lord Gosford gave over the administration of the province to sir John Colborne, who entered on his authority on the 27th. Lord Gosford left Canada, crossing over to Point Levis and following the Kennebec road to Boston. He passed a few weeks in the United States, visiting New York, Philadelphia and Washington, and then embarked for England.

Those who have assailed the policy of extreme conciliation followed to the last by lord Gosford, while admitting his want of judgment acknowledge his honesty of purpose and his patriotic feeling. Whatever concession may be made in this respect, it cannot explain away his want of statesmanship, and failure to understand the situation in which the province was placed. The course followed by the house of assembly had made constitutional government in Canada impossible. The constituencies were so composed, that the British population, although consisting of one-fourth of the population, was totally without representation. It throws light on lord Gosford's character, that in 1839, when the union bill came up in the house of lords, he was among its principal opponents.

So futile are his arguments that it is difficult not to believe that personal feeling biased his judgment, that he remembered his unpopularity with the British population of the province he had left. Lord Gosford had written in September, 1837, that the "Papineau faction aimed at the separation of the province from England." In November he had argued that a "strong course of proceeding was every day becoming more necessary." When the union bill came before the house of lords, he declared the bill to be unjust and

tyrannical. He spoke of the destruction of the constitution of Lower Canada when he had admitted himself that, as the house of assembly was constituted, it would not work. He spoke of overwhelming the French Canadian population by those who, without cause, were shewing them so much hatred. He complained of the inferior population of 300,000 or 400,000 of Upper Canada obtaining the same representation as the 700,000 of Lower Canada. Lord Gosford cannot escape the charge of misrepresentation. He ought to have known that the census of Upper Canada had been taken, year by year, since 1824. The population of 1838 was 399,489. The generally accredited population of Lower Canada at this date was less than 600,000. In 1844, six years later, it was only 697,084. Moreover, lord Gosford could have learned that in 14 years, 1824-1838, the population in Upper Canada had increased from 150,066 to 399,422, nearly three-fold. His second argument was the debt of Upper Canada, which amounted to a million, while Lower Canada had scarcely any debt at all. He omitted to state that the public works of Upper Canada, the Welland and Cornwall canals, had been constructed from this borrowed money for the improvement of the Saint Lawrence navigation, in which the commercial interests of Lower Canada were involved equally with those of the upper province, and it has to be recollected that the improvement of the Ottawa and Rideau navigation had been effected at the cost of the imperial government.\*

Lord Gosford entirely misrepresented the rebellion. His remarks were at variance equally with his own reports and to the facts of the case. He described it as the violence of the election contests. The British population he assailed for their arrogance, and adduced as an example, as has been

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\* At the time of the union \$1,448,538.37 had been expended on the Cornwall canal; on the Welland canal, \$1,851,427.77. Independent of this amount \$124,356.68 had been expended on the Burlington bay canal. The total expenditure on public works, including the Saint Claire flats, was \$3,424,322.22.

In Lower Canada, the total amount expended on the Lachine canal, lake Saint Peter and the Cascades, Cedar and Coteau Rapids was \$446,809.98.

narrated, that they offered to constitute themselves into a rifle brigade, an offer made under a sense of personal danger.\*

There are few governors-general with less claim to respect. His very nomination was a *pis aller*. Public men who had anything to lose in imperial politics would not incur the risk of accepting the office of governor-general of Canada, after the abandonment of lord Dalhousie, the sense of failure of sir James Kempt and the treatment received by lord Aylmer. Hence the selection of lord Gosford, an unknown man, had much depended upon the consideration who, of sufficient rank, was willing to enter upon the charge with all its contingencies. On this condition lord Gosford became governor-general. He had, moreover, the misfortune to act with a weak *doctrinaire* colonial secretary, lord Glenelg, who had formed theories of government entirely irreconcilable with the circumstances of the situation. Fortunately, as a *deus ex machinâ*, sir John Colborne stepped upon the scene with the courage to act upon his convictions, and the capacity to penetrate fact and circumstance. He judged the situation correctly, and was deterred by no timid sense of responsibility in the performance of his duty. He saw that vigour alone could save the province from the anarchy that was threatening it; he met the crisis in a brave spirit with unfaltering purpose, and he was equally actuated by mercy; for, to the honour of the British government, there was not a single death penalty paid by even the most active in the rebellion of 1837, when it was believed that the danger was past.

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\* [Ante, iX, p. 615.]

## CHAPTER IV.

Sir John Colborne, on the day of his assumption of the government, published a proclamation continuing in the district of Montreal martial law, as it had been proclaimed by lord Gosford on the 5th of December. A few days previously, a general order had been issued for the disarmament of the inhabitants of the counties of Laprairie, Chambly and L'Acadie. They had been called upon within one month to deliver their arms to the nearest military post at Saint John's, Chambly, L'Acadie, Napierville, Saint Philippe or Ile-aux-noix.

News of the attempt at insurrection at Saint Denis and Saint Charles, as might be expected, caused a profound sensation in England. The report reached London at the close of the autumn of 1837. Parliament was then sitting. A session had been called to provide the civil list on the queen's accession, and the design had been that an adjournment for six weeks should have taken place a few days before Christmas. The reports current magnified the retreat of Gore, and imperfectly narrated Wetherall's success at Saint Charles, while the papers unfavourable to the ministry with the small knot of advanced radicals, gave the most gloomy picture of the condition of the province. Ministers were without official authority to contradict this unfavourable intelligence, and were naturally disinclined to admit it. The radicals attributed the troubles to the resolutions of lord John Russell, which they had opposed; and in the house disparaged in no measured language the British and Irish population who had ranged themselves on the side of constitutional government. The patriotism of the French Canadians was extolled without stint, and earnest wishes were expressed for their success, even by the defeat of the British troops.

Canada, in her history, has frequently had to complain of the misconceptions formed, and the misrepresentations expressed in the house of commons regarding the province. The *doctrinaire* spirit of the colonial office, the habitual mischievous assertions of Mr. Roebuck, accepted by his brother radicals, led to both unjust and offensive affirmations against Canada, and furnished the province righteous ground for complaint. But the good sense and the spirit of justice of the great body of the British people rose up indignantly to set aside this declamation. Moreover, the truth came to be known ; and what is never forgiven by the true heart of the British race is the slightest sympathy with the discomfiture of the national arms. It is painful to think that no less a person than sir William Molesworth took upon himself to say in his place in the house : " If, unhappily, a war does ensue, may speedy victory crown the efforts of the Canadians, and may the curses and execrations of the indignant people of this empire alight upon the heads of those ministers who by their misgovernment, ignorance and imprudence involve us in the calamities of civil discord, and expend our national resources in an unholy struggle against liberty !" \*

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\* [Mirror of Parliament, XXXIX., p. 1467.] Mr. Roebuck's agitation against Canada in this crisis called forth the strongest indignation. The *Quebec Mercury* of the 11th of March, in unmistakable language, thus expressed the feeling entertained in the province towards him :

" We find in it the report of a meeting on Canada matters held in Mary-le-bone on the 10th January : of the character and composition of the meeting we need say no more than that Roebuck was in the chair, and with his habitual disregard of truth asserted that the contest in Canada was entirely owing to the efforts of the officials to annoy and plunder the people, ' that the soldiers in their search through the country found two men who were particularly respected and beloved in the neighborhood ; they seized them, placed chains upon their legs, a halter around their necks, they set them in an open cart, and, instead of bringing them the shortest road, they took them through the most excited part of the country.' ' Of course this moved the tender sympathies of the cockneys, who stood with open mouths to swallow the wonderful tales of the ex-agent. After this it will not create surprise to find that Mr. Roebuck further informed his auditors that in the time of the cholera the emigrants would have perished had it not been for these very Canadians who were now treated as traitors, but who then formed a committee for their preservation and took care of our countrymen sinking under a dreadful pestilence on their shore, at a time too



Parliament was adjourned to the 26th of January. Lord John Russell, on its re-assembling, informed the house that the ministry had decided to suspend the constitution of Lower Canada for three years, and to send out as special commissioner the earl of Durham with authority, in concert with five of his council, to pass the necessary ordinances. Further, it would be his duty to summon three members of the legislative council, and ten of the house of assembly of each province, to confer in the future government of the province. The opposition to the measure by the few extreme radicals was of no avail. The conservative party came to the rescue of the ministry, and strongly expressed its censure of the encouragement which had been given to the insurrection. Mr. Roebuck had no seat in the house, but he was heard at the bar, as the agent of the house of assembly. But the opposition was without effect. The resolutions were carried, and the bill introduced to give effect to them was passed by 262 to 16.

It, however, was subjected to some important changes in committee. Sir Robert Peel objected to the preamble, which recited the course to be followed by lord Durham as committing the house to a declared policy. The preamble was therefore modified. The bill enabled the queen in council to terminate the operation of the law. Peel also caused the abandonment of the clause. The authority given to the governor-general, with the assent of his council, to frame laws was modified by the amendment, that no law of the imperial or of the provincial parliament could be changed. Sent to the lords, although opposed by lord Brougham, it became the law without delay.

Lord Durham spoke on the occasion with feeling and

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when our own paid commissioners kept away from them.' By such barefaced lies this renegade endeavours to move his rabble audience in favour of the Canadian rebels and against his own countrymen in this Province; and to further his views, impudently holds himself out as the fountain of true information respecting these Provinces, declaring in his concluding speech that he was particularly willing to preside at such meetings, as he felt himself extremely competent to give an elucidation of the state of affairs in Canada."

dignity. He expressed his reluctance in undertaking the obligation, and it was only his attachment to the crown, and his sense of public duty that had induced him to place himself and his character in the position, in which he feared he might not answer the expectations of his noble friend who had requested him to undertake the office. It may be said that he spoke almost with the spirit of prophecy. He did not proceed to Canada, he said, in the support of a parliamentary party. He would be present to vindicate the honour and dignity of the law, taking care that it was not set at naught in the remotest cabin of the remotest settlement. He would look upon all in the province only as her majesty's subjects. In reply to lord Brougham, who had said he had undertaken a thankless task in aiding in the suspension of the Canadian constitution, lord Durham pointed out that the constitution had been suspended, not by an act of the British parliament, but by the rebellious acts of individuals in the province. He was proceeding to Canada with no such purpose; his presence was to provide a remedy for an extraordinary state of things in which the working of the constitution had become impossible. This end he trusted to obtain at every personal sacrifice, he was sure, with the co-operation and forbearance of parliament, and by help of the candour of the noble lords opposite, to whom he had been opposed all his life.\*

Receiving full instructions for his guidance from lord Glenelg, lord Durham left England on the 24th of April on H.M.S. "Hastings."

In Lower Canada an event had taken place on the last day of February, which to this day has remained without explanation. It has been said that the 26th of this month had been observed as a public day of thanksgiving. On the lake Champlain frontier, at the towns of Champlain, Chazy, and Plattsburg, many of those who had been engaged in the troubles in Canada sought refuge. Great sympathy and encouragement had been shewn by the inhabitants to all who

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\* I deem it due to the memory of lord Durham, to whom Canada owes so much, to append this speech in full at the end of this chapter.

had been engaged in the outbreak, and, when opportunity occurred, by insulting any British subjects who were passing through these places, especially if considered to represent in any way the authorities in Canada.

The commanding officer of the United States troops stationed on the frontier was general Wool, who knew what war was, for he had distinguished himself in the war of 1812 as early as in the attack on Queenston Height.\* He could have had little sympathy with the noisy, undisciplined crowd of refugees who talked of destroying the British soldier with little effort. Wool had had experience in the field that such men were not wiped out of existence by gasconade. Moreover, his orders were to prevent all violation of international law, which would have the result of affecting the peace and comity between the two countries. An intercepted letter sent by him to sir John Colborne throws some light on the movement. It was written by Robert Nelson to a partisan named Ryan. It is difficult to think that he believed what he wrote. Wool must have had no slight contempt for a mere handful of men, without discipline, having made no preparation for operations in the field, without money, engaged in the mad attempt of attacking the British troops in Canada under so renowned a soldier as Colborne. Whatever the noisily expressed sympathies of the inhabitants of Northern Vermont, they were confined to mere wordy manifestations. That such was the case must be regarded as the consequence of the influence and authority of Wool. Both by his counsel and active exercise of his power, he confined the sentiment to mere declamation, so that it is believed not a single person who was not a French Canadian refugee was present in the expedition which was then attempted.

Robert Nelson's letter was written from Plattsburg, a few days before he crossed into Canada on the 28th of February. He enclosed to Ryan some "proclamations of the provincial government of Lower Canada, to be distributed to the best advantage." He informed Ryan that Mackenzie with a

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\* [Ante, VIII., p. 219.]

large force, and well provided for war, had taken up his march on the previous Thursday towards Upper Canada: that on Friday, the 23rd, he was safely encamped at Gananoque. The news had been confirmed by a despatch from sir John Colborne to general Wool. The consequence was that Colborne had proceeded thither with the regular troops. "We have so arranged that Wool and Colborne and Co. are under the firm persuasion that we have recently sent on our men and means to the assistance of McK." Wool was to move west to guard the Saint Lawrence frontier. All this was to facilitate the entry into Lower Canada and make success easy of attainment.

Dr. Nelson recommended Ryan to make his way to Three Rivers, where Nelson would join him after reaching Montreal; otherwise, if his force was insufficient for this attempt, he was to follow the route to Saint Hyacinthe, thence to Sorel, and there remain until he received further instructions. If the force were unequal to this attempt, Ryan was to retreat to Missisquoi bay, Saint John's and Laprairie. "Papineau," wrote Robert Nelson, "has abandoned us, and this through selfish and family motives regarding the seigniories, and inveterate love of the old French bad laws."\*

This attempt upon the province took place on the 28th. The insurgents had assembled in the towns of Champlain, Chazy and Plattsburg, and had obtained arms from New York and Vermont, those taking up their cause having given this assistance; and they must have had other resources, for they were to a certain extent equipped. They are accredited with having obtained arms from the arsenal at Elizabethtown. They crossed over in sleighs to Alburg, when with three field-pieces they passed into Canada and halted at a mile distance from the frontier. So soon as the movement was known, the Missisquoi volunteers assembled. They were directed by the inspecting field-officer, colonel Warde, to await the arrival of the queen's troops from Henryville, under colonel Booth.

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\* [Parliamentary papers, No. 2, 1839, enclosed in despatch of sir John Colborne of 19th March, 1839 (p. 101.)]

The insurgents had been led by Dr. Robert Nelson and Dr. Côté. There could have been little faith in the attempt, for the following day, the 1st of March, they recrossed the frontier into the United States. There is every supposition that this proceeding was instigated by Wool. He knew that if their demonstration assumed a really offensive movement the whole body would be annihilated. They were informed that when returning into the United States they could not be admitted across the frontier with arms in their hands, as this proceeding would be an invasion of United States territory. Fortunately for themselves, they accepted the counsel they received, and were disarmed. Both Nelson and Côté were arrested and handed to the civil power.

It was fortunate that a man of the sense and character of Wool commanded on the Champlain frontier. He behaved with great judgment, and exerted himself to maintain friendly relations with Canada. With a man of his calibre there was little on the part of the Canadian insurgents to awaken sympathy. There is a letter of his to sir John Colborne, enclosing a petition from 20 Canadians desirous of coming back to Canada. Believing that good would result to both countries "if this wandering and deluded population would be permitted to return to their homes," he had encouraged the application and had promised to intercede in their behalf. They were unable to provide for their families and became a prey to corrupt and designing men, ready to disturb the peace and quiet of the frontier,\* and the preservation of the neutral obligations of the United States. Wool deserves the most honourable mention in Canadian history for the mode in which he performed his duty to his own country, and for the consideration he shewed to the province in this crisis. The request he sustained was granted by Colborne, both from the humanity of his character and from policy.

It was on this occasion that the declaration of independence of Canada was issued. It appeared shortly after in the Montreal papers. It was signed by Robert Nelson, president,

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\* [Par. papers, No. 2, 1839; No. 101, 13th March, 1839.]



by order of the provincial government; while the proclamation that accompanied it was signed by the same Nelson as commander-in-chief. Of whom the self-constituted government consisted, except Nelson himself and Côté, remains a profound mystery. Nothing in the annals of folly can be adduced as equal to it, except the traditional "Three Tailors of Tooley Street," who described themselves as "We, the people of England." The declaration, so compounded, had at least the merit of equally representing the races who thus declared the allegiance to Great Britain at an end. In the republic so established, the Indians were to have no disqualification. The union between church and state was dissolved. The seigniorial tenure was abolished as if it never existed, and all bearing arms were discharged from all obligations and dues. The *douaire coutumier* was prohibited. There was to be no imprisonment for debt, no sentence of death. Registry offices were to be established, the liberty of the press and trial by jury were guaranteed, and the general education of the people and vote by ballot were to be recognised as legally established. Every male person of 21 years was to have the right of voting. Delegates were to be chosen to prepare a constitution. All crown lands, clergy reserves and the lands nominally in possession of the British American land company, certain rights reserved, should become the property of the "state of Lower Canada." Both French and English should be used in public affairs.

The declaration, as might be expected, offered fraternity and threatened retaliation. Further it averred that the supporters of the republic would not lay down their arms until their purpose was effected.

The only explanation of the publication of a paper so utterly absurd from the powerless character of those who issued it, and the few dozens known to sustain it, if such existed, was that its design was to excite a feeling antagonistic to Great Britain in the United States, and, if possible, provoke the sentiment in which the possession of Canada should be the prompting motive.

The act suspending the constitution of Lower Canada reached Canada in February, and was proclaimed on the 20th of March. On the 5th of April the appointment of the special council was gazetted, with a summons to meet on the 18th. On the following day those who had attended were sworn.\* Each councillor was informed that lord Durham would enter upon the discharge of his duties unfettered by the previous appointment. Therefore, they were to be regarded as provisional, and the instructions the administrator had received might be revoked, and superseded by those issued by lord Durham.

On the 12th of April sir John Colborne, considering that from the peaceful conditions of the province the services of the volunteers were no longer required, by a general order directed their disembodiment on the 30th of April. Among these regiments were two from Glengarry; one, under the

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\* The following constituted the first special council :

*District of Quebec.*

The hon. C. E. C. de Léry, of Quebec.

“ James Stuart, “

John Wilson, Esq., “

William Walker, Esq., “

Amable Dionne, Esq., Kamouraska.

Charles Casgrain, Esq., Rivière Ouelle.

The hon. M. P. de Sales, De La Terrière, Eboulemens.

*District of Montreal.*

The hon. T. Pothier, Montreal.

“ P. McGill, “

“ P. de Rocheblave, “

Samuel Gerrard, Esq., “

Jules Quesnel, Esq., “

Wm. P. Christie, Esq., “

Turton Penn, Esq., “

John Molson, Esq., “

The hon. J. Cuthbert, of Berthier.

“ B. Joliette, of Saint Paul, Lavaltrie.

Joseph E. Faribault, Esq., of L'Assomption.

Paul H. Knowlton, Esq., of Brome.

Ichabod Smith, Esq., Stanstead.

*District of Three Rivers.*

Joseph Dionne, Esq., of Saint Pierre les Becquets.

Etienne Mayrand, Esq., of Rivière du Loup.

command of colonel Fraser, had been quartered in Saint Philippe, in the county of Laprairie. They were 500 strong, and, headed by their pipers, marched through Montreal on their way home, loudly cheered by the inhabitants who had crowded the streets to welcome them. They were followed later by the Lancaster regiment, under their colonel, Macdonell. These regiments presented the soldier-like appearance that might be expected from the stalwart population of Glengarry, which still retains the same type of strength and vigour.

A proclamation on the 27th of April declared the termination of martial law. The province was thus held to be in a state of tranquillity. The feeling, however, was not wholly dispelled that future trouble was brewing ; in a great degree attributable to the conduct of those who had sought refuge on lake Champlain, in Vermont and in New York. The sympathy expressed with the insurrection was by no means slight, and great encouragement had been given to the continuance of the agitation. The movement likewise received countenance in England from the extreme radical party, who gave a colouring to the insurrection it in no way warranted, and who openly expressed their sympathy with the French Canadians as having struggled for their rights and liberties. It has often happened in imperial politics that the condition of Canada has been made the ground of a party attack. Few members of the house of commons have felt it a duty to study the history of the province, and hence the misconception that has arisen. When the time for debate arrived, there was a hasty generalization sought from the facts on the surface, to give to them the character desired. The defence of the cause of insurrection of Lower Canada on constitutional grounds appealed to the sympathy of professors of extreme radical opinions in the constituencies where they swelled the majority. The tone taken had great influence in Canada in 1838, and contributed to some extent to the events of the close of that year.

In January, in the house of commons, on lord John Russell moving for leave to bring in a bill for the temporary provision for the government of Lower Canada, Mr. Hawes asked

if steps had been taken to prevent the infliction of sanguinary punishment previous to the arrival of lord Durham. The inexpediency of such a question becomes plain when it is remembered that the news of the insurrection had been but lately received, that its extent was unknown, and its consequences not possible to determine. Lord John Russell answered that the government had not neglected to express the inexpediency of capital punishment. He had, however, no doubt that the feeling of sir John Colborne was of the same character as that of the government. No positive instruction had been given, but it might be expected he would concur in the suggestion. Several members spoke. All disclaimed any intention of reflecting upon sir John Colborne. Lord John Russell replied that the government would not interpose in individual cases. All that had been done was to express the expedience of clemency.

Sir Robert Peel pointed out the inadvisability of the house of commons discussing the subject in absence of all knowledge of the crimes committed. Was murder not to be punished by death? Were the murderers of lieutenant Weir to be pardoned? Such of the prisoners whose case it was possible to consider favourably had been released, but many remained in durance. Some had been taken with arms in their hands; others had been arrested from information received of their participation in the movement; in some cases, possibly unwarrantably. No steps had been taken to bring any of the prisoners to trial. To have had recourse to civil juries in the condition of feeling would have led in every case to an acquittal. With the insurgents and those who gave them a qualified support, any forbearance shewn would have been attributed to the weakness of the government, and have suggested that the restraint had sprung from fear only; a sentiment that would have encouraged the dormant agitation, and led to the continuance of the belief that the cause of the insurrection must eventually prove successful.

Lord Durham arrived in Quebec on the 27th of May. He did not, however, disembark until the 29th. He was received

by sir John Colborne and all that constituted military and official life in Quebec, and proceeded to the house of assembly, which had been prepared for his reception, the only public building available for his accommodation. A proclamation was immediately issued by him, in which he declared that the honest and conscientious advocates of reform who sought the amelioration of defective institutions, without distinction of party, race and politics, would receive from him assistance and encouragement, but that the enemies of peace and of the connection with the parent state would find in him an uncompromising opponent. He desired to lay down a system of government that would protect the rights and interests of all classes, permanently establish the wealth and greatness of the country, and develop its inexhaustible resources. He invited the most free and unreserved communications to be addressed to him.

Previous to his departure some reinforcements had been sent from England. Two cavalry regiments, the King's Dragoon Guards and the 7th Hussars; with the 2nd battalions of the Grenadiers and Coldstream Guards, under sir James McDonnell. Several drafts were also sent to the regiments then in Canada to make up their strength.

Lord Durham was attended by an unusually large staff. He appeared in Canada as governor-general and high commissioner. His private secretary was Mr. Edward Ellice; the military secretary, colonel Cowper, with three *attachés*—Mr. Burke, Mr. Arthur Butler and the Hon. Edward Bouverie. There were five aides-de-camp, lieutenant the Hon. Frederick Villiers and captain Conroy, of the Coldstreams; ensign Cavendish, of the 52nd; cornet Dillon, 7th Dragoon Guards; and captain Ponsonby, of the 52nd. He was also accompanied by a physician, sir John Dorate. These appointments may help to explain the great state assumed by lord Durham when in Canada.

The public life of lord Durham exacts the most grateful and respectful mention on the part of every writer of Canadian history, with the fullest acknowledgment of the wise and



beneficent view he took of the condition of the province, and of his advocacy of the concession of an enlarged system of self government. It must also at the same time be stated that in social life, his arrogance of manner and assumption of superior rank entirely checked the feeling of respectful attachment and personal regard, which have been called forth by many governors-general. This extraordinary, unpleasant self-assertion has passed out of view with the present generation, and the undoubted service that lord Durham rendered to Canada is alone remembered. The fact, however, is not without its significance, for lord Durham could count upon few friends to stand by him in the crisis so soon to arrive in the house of lords, when his government in Canada was so bitterly assailed. The consequence was, that when the attack was made upon him in that house, and his Canadian policy bitterly censured, or he was assailed, as in the case of lord Brougham, from feelings of personal enmity, he had no defenders in the members of the ministry present, who were bound by every sentiment of duty and honour, to have risen in his justification and support. On the contrary, they silently listened to the censure passed upon him. No one felt it a special duty to sustain him, from the determination of not deserting a friend, or from the personal feeling of taking a favourable view of his conduct. The principal exception was lord John Russell, in the house of commons, who, from a sense of self-respect, in accordance with his character, behaved with courage and dignity.

Although lord Durham was the first of his name that was ennobled, the family of Lambton is one of the most ancient in the county of Durham. It can be traced to the 12th century, and although in the wars of Henry III. the records were destroyed, there is proof sufficient that the Lambtons were people of consideration at the conquest. His father was a leading member of the whig party, the friend of Fox; his mother, a daughter of lord Jersey. He was born in August, 1792, so that on his arrival in Canada he was in his 46th year. From Eton he passed to Cambridge, and for more than two

years, from May, 1809, to August, 1811, he held a commission in the 10th Hussars. Before attaining his 20th year, in January, 1812, he made a runaway marriage with Miss Harriett Cholmondeley. She lived but little more than three years, dying in 1815. Mr. Lambton, upon reaching his majority, entered parliament for the county of Durham in 1813. He was constantly a strong adherent of liberal measures. As early as 1821 he moved a measure of parliamentary reform. In 1816 he married the eldest daughter of lord Grey. In no time of his life was he free from uncertainty of health, and in 1826 he was so ill, that it became necessary for him to seek repose and relief by change of scene. Accordingly, he proceeded to Naples, where he remained some months.

In 1828, on the resignation of lord Goderich, he had been created baron Durham. Two years later, in 1830, he formed a part of lord Grey's ministry as lord of the privy seal. He took a prominent part in the passage of the reform bill, and the first bill was to some extent drafted by him. He sympathised warmly with every liberal movement, and in 1830, on hearing of the French revolution, he wrote to Brougham, "What glorious beings the French are!" He was a strong advocate of vote by ballot. It was at a cabinet dinner at his house in 1831 that a council was held, when it was resolved to recommend the dissolution of parliament to the king, and messengers were sent to Windsor the same night. He strongly advocated the creation of peers to carry the reform bill in the house of lords. In this view he agreed with Brougham and Graham. Grey and Althorpe opposed it, and it was during the argument at the dinner at lord Althorpe's that he made the offensive attack on his father-in-law, lord Grey, described by one of his colleagues as "brutal," while a second remarked, had such language been addressed to him he would have knocked Durham down. It was thought that he would resign, for he absented himself from some meetings of the cabinet. The only proceeding on his part was to write in favour of the creation of peers.

In April, 1832, in the debate on the reform bill, he made the memorable onslaught upon Phillpotts, bishop of Exeter, who had attacked the proposed measure in anything but with a clerical spirit. They were old antagonists. In 1819 Phillpotts, then prebendary of Durham, had published a pamphlet, criticising with severity Mr. Lambton's denunciation of the government for the loss of life at the political meeting at Manchester, the so-called "Peterloo massacre." \* Durham never, it may be said, changed his views regarding what he said in the house of lords on that occasion, for it is included in his volume of speeches.

In 1834 he came into collision with Brougham, through which they became enemies for life. It was Brougham who, when the opportunity offered, attacked him in the house of lords with singular bitterness. He had been a great supporter of Brougham, and at the election of Northumberland in 1820 had been engaged in a duel with one Mr. T. W. Beaumont, owing to the comments made by Beaumont on his proceedings. The quarrel with Brougham commenced at a banquet in Edinburgh to lord Grey, when Durham replied to some offensive observations of Brougham on lord Grey.

In 1835 Durham left the ministry. The reason assigned was his objection to Stanley's Irish church temporalities bill; it is now understood that his resignation was caused by the appointment of Stratford Canning as ambassador to Saint Petersburg. In 1832 Durham had been present at Saint Petersburg on a special mission, and he had promised the emperor that Canning should not be sent. Palmerston, then foreign minister, would not accept his representations on the subject. Durham accordingly retired. The curious part of the matter remains to be stated. The appointment was not made, and Durham himself went as ambassador in 1835, an office he resigned in 1837 to receive on his return the G.C.B.

The question, which has been raised in modern times may be here considered, whether lord Durham himself wrote his celebrated report, or if it was the work of other hands.

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\* [Ante, IX., p. 415.]

Greville in his diary states it was written mainly by Buller, with two chapters by Wakefield. Thus Greville, repeating the mere gossip of the day, and always ready to chronicle anything unfavourable to Durham, is responsible for these doubts. To my mind the question is mere childishness. Of Durham's ability there has been no question. It was recognised by the first men among his contemporaries: lord John Russell; lord Dalling; Ward; Grote; Warburton. The defect of lord Durham's character was his irritability, his want of consideration for others, his absence of self-control, his arrogance and self-assertion, by many still remembered in Canada, although upwards of half a century has passed since he left the country. Lord Melbourne, who did not like him, unwillingly included him in a cabinet. His objection was to the temper of lord Durham, not his want of ability.\* Lord Durham had been carefully educated. He never shewed any want of reading during the preceding quarter of a century he had sat in the house of commons and the house of lords. He had been a member of the most remarkable ministry since the revolution; he had been an ambassador to Russia, and it is universally admitted that he drafted much of the first reform bill. That lord Durham availed himself of the services of the able men who accompanied him to Canada is simply what every minister is compelled to do in the performance of his duty. No public man can individually perform all the obligations of his office. It might as well be said that a general must alone fight a battle. Even the driver of a locomotive requires the services of a fireman to feed the furnace of his boiler. All that a minister can possibly do is to determine the policy and the line to be followed; and to give to his staff the instructions how his views are to be expressed; when the work is complete, to examine the mode in which his instructions have been carried out; to suggest emendations, additions and suppressions, to make his work his own;

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\* Melbourne wrote to lord John on the 7th of July, 1837 [Life of Russell, I., p. 285] "I have no personal objection to any man. But everybody after the experience we have had, must doubt whether there can be harmony in a cabinet of which lord Durham is a member."

possibly to re-write certain passages the better to explain his convictions.

One extraordinary feature of the report is the rapidity with which it was completed. Lord Durham landed in Quebec only on the 29th of May, 1838, and his report is dated the 31st of January, 1839, eight months being the time taken for its preparation. During the five months that Durham was in Canada, from the 2nd of June to the 1st of November, he wrote 70 despatches, each one containing important inclosures. With like propriety it might be asked, were these despatches written by him. In my poor judgment the supposition is not worth a quarter of an hour's consideration.

Few men ever entered upon a mission with greater general expectation. His known advanced opinions and the liberal views he had invariably expressed had led to a feeling of general confidence in his mission, especially with the extreme section of the liberals. His speech in Edinburgh was remembered, in which he had said "that he saw with regret every hour which passed over recognised and unreformed abuses." Of his personal honour and character there has never been a doubt.

Durham was one of those men who are born to exercise authority, who may be managed but not contradicted. His sense of his personal rank and position, as it declared itself in Canada, had been its objectionable side. He was hospitable in the sense of entertaining, but evidently he thought that the honour paid by him of asking a public man to his table was all that was necessary, and that the exercise of a delicate courtesy was not as a consequence its concomitant. Many of the governors-general of Canada, especially those of late years, are remembered by the perfect polish of their manners, and by their natural charm of address and unaffected kindness, that never failed to impress all brought under their influence. No such recollection is attached to Lord Durham. He has the reputation of having treated his staff with extreme *hauteur*. When he drove out in Quebec for his short trips, to pass out by one gate and come in by another, he was



accompanied by three or four of his aides-de-camp in scarlet and gold, as if to assert his rank. The tradition is recorded that all the servants of his household, except those whose duties made their presence necessary, were charged to be cautious in not crossing his path. There is a story told of him that at an afternoon dance on board the "Hastings," one of his aides-de-camp, captain Conroy, of the Guards, was interrupted in a waltz in order to find his excellency's hat. He was heard to call Mr. Buller to account for the *gaucherie* of spilling a cup of coffee on a *Westminster Review*. One story is extant that a key of a cabinet being lost, some members of his household sent for a smith to pick the lock. Lord Durham unexpectedly came in, and pounced upon the man in a way to surprise him. The story was told with much exaggeration, but the basis of its truth was undoubtedly curious. On one occasion the clergyman at the cathedral preached against the theatre and the race-course. Lord Durham spoke to the bishop of the sermon, and complained of it as a reference to himself, he having patronised the theatre, and been present at races. He received so little sympathy in his complaint that he never afterwards attended the cathedral, but called upon the military chaplain to perform the service on the Lord's day at his residence. At Kingston he arrived late at night, and there was no guard of honour to receive him; it was regarded by him as an official slight, so that he called colonel Dundas, of the 83rd, to task for it. He had a great dislike to tobacco, and when on board of an Upper Canada boat the smoke of a cigar having attracted his attention, he insisted that the captain should learn who was the offender. In the first instance no one could be found, but, as he persisted in his request that the culprit should be discovered, the captain returned with the news that the admiral, sir Charles Paget, had ensconced himself in some corner with a cigar. "I suppose," said the governor-general, "we must let him smoke."

At Cornwall on lord Durham's return to the lower province the steamboat "Neptune" was engaged to carry himself,

his family and suite down lake Saint Francis to Coteau Landing, a distance of 30 miles ; half way down the lake is the village of Lancaster in the county of Glengarry. The minister, Mr. McNaughton, of Cornwall, periodically officiated at Lancaster, and as it was one of the periods of his visitation, he thought the opportunity favourable for the journey. He asked, therefore, permission to take his passage by the boat as far as Lancaster, to which place it generally carried the mail. The permission was granted, with the hint to keep out of the governor-general's sight. Whether from want of prudence or accident the clergyman's presence became known to lord Durham : with great anger he called the captain to account for allowing this intrusion upon his privacy ; a rebuke he extended to the offending minister. He denied his permission to land at Lancaster, although the delay would have been insignificant, and the boat carried the minister to the Coteau. Mr. McNaughton had therefore to drive 16 miles, for the day being Saturday the boat did not make the backward trip until Monday.\*

One line of policy followed by lord Durham in some quarters led to unfavourable criticism of his political career : this was his determination to ignore the social cliques of Quebec and Toronto, which had hitherto dominated those communities. There was no official circle in Montreal, and as in all communities there is always a pre-eminent class, in this city it was professional and commercial, and free from the pretentious exclusiveness which in Quebec was a matter of much soreness of feeling. As was said at the time, there was no government-house set. It was this set that lord Durham entirely ignored.

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\* Many years ago I heard general Gore tell a story of lord Durham, which I have never forgotten. There was a ball at Quebec, an invitation to which the governor-general had accepted. The superior officers, with other leading personages, hearing of his arrival proceeded to the landing of the stair to receive him. Lord Durham arrived with his aides-de-camp, to one he gave his cap, to another his gloves, to a third his cloak, and without speaking a word, walked through the assembled party to the hall. General Gore, himself the son of the earl of Arran, the most courteous and high-bred of men, who from his long residence in Canada had much Canadian feeling, told the story with the slight accentuation which supplied the place of comment.

His hospitality was general, and he broke the lines that had been so arbitrarily formed, never to be re-established. There was consequently a clique who gladly saw his retirement from the country. The feeling with the great mass of the population was directly the opposite. Lord Durham's desire to perform his duty, his energy, his determination, his full appreciation of all that was necessary, obtained thorough recognition. His eccentricities did not affect the general opinion, for it was the exception to be brought under their influence. That which is remembered of him in Canada is his broad statesmanlike views and his uncompromising determination to probe and strike at the root of every evil. It was owing to the policy that he had the wisdom to conceive and the courage to expound, that Canada obtained the constitution which has proved the salvation of the province, and has led British America to attain the high position it holds in the empire to-day.

Yet the first act of lord Durham bore the impress of arbitrariness, although he advanced reasons for the proceeding which undoubtedly have weight. Two days after his arrival on the 31st of May, he dissolved the special council nominated by sir John Colborne. That the proceeding was taken in accord with the views of Colborne is plain from the letter to lord Glenelg, reporting the arrival of Durham.\*

The special council as established by lord Durham consisted of the chief secretary, Mr. Charles Buller; the secretary, Mr. T. E. M. Turton; the military secretary, colonel Cowper, and commissary-general Routh. The one Canadian official included was Mr. Daly, the provincial secretary. The old council was dissolved on the 1st of June.

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\* [Par. Papers, 1839, No. 2.] 30 June, 1838. Colborne wrote: "All parties appear disposed to support his measures and give him their assistance in his endeavours to re-establish a constitutional legislation, on such principles as will afford equal protection to the English and French population. With respect to my own communications with his lordship and to the conversations which I have had with him, they have been entirely satisfactory, and I concur with him in all his views which he has made known to me." This letter was written three days after the change in the composition of the council.

The preceding day each individual member received a circular intimating the fact that his services had been discontinued, not from dissatisfaction with his conduct, for great esteem and respect were entertained for him personally, but from the decision that the council should be completely independent of, and unconnected with all persons in the province. When constitutional government was re-established, there would be a return to their natural state of the different powers composing it.\*

One of the first duties imposed on the attorney-general

\* This act led to misrepresentation on the part of English writers, and even in recent histories it has been narrated with unfairness. It is as an act of justice to lord Durham to state the reasons given by him in justification of the proceeding.

“CASTLE OF ST. LEWIS, QUEBEC, 31st May, 1838.

“Sir,

“I am directed by His Excellency the Governor-General to acquaint you that it is not His intention to continue the Executive Council, according to its present composition, and that your services therefore will not be required for the present.

“His Excellency has come to this determination, not from any feeling of dissatisfaction with the conduct of that Council, or any of its members. On the contrary, His Excellency particularly directs me to express his high sense of your services and his esteem and respect for yourself personally. But His Excellency deems it essential for the objects of his mission, that during the temporary suspension of the Constitution the Administrator of Affairs should be completely independent of, and unconnected with all parties and persons in the Province.

“Dissensions and animosities have naturally, during the course of the late unfortunate events, been carried to such an extent, that the necessary abstraction from all party feeling cannot be expected from any who have been participators in the struggle on one side or the other.

“His Excellency believes that it is as much the interest of you all, as for the advantage of his own mission, that his administrative conduct should be free from all suspicions of political influence, or party feeling; that it should rest on his own undivided responsibility, and that when he quits the Province, he should leave none of its permanent residents in any way committed by the acts which His Government may have found it necessary to perform, during the temporary suspension of the Constitution. When happily the time shall have come for the re-establishment of Constitutional Government, the different powers composing it will return to their natural state, and be confided to those whose station in the Province and personal character entitle them to the confidence of their Sovereign and their country.

“I have, &c.,

“CHAS. BULLER, JR.,

“Chief Secretary.”

was to furnish the names of the political prisoners, with the depositions on which they had been committed, and the length of their imprisonment, the number of warrants unexecuted against those who had fled from justice, with a specification of the grounds of suspicion against them. He thus acted on the great constitutional principle of the British constitution since the days of the Magna Charta, assuring the personal safeguard of the subject.\*

On the 4th of June an address was presented by the citizens of Quebec. The immediate expression of the grievances under which the British population lay was deferred, but at the fit time they would be submitted. It was, however, stated that in a great measure they resulted from being virtually unrepresented in the legislature. The governor-general would find "the country impoverished, public improvements retarded, enterprise scarcely existing, and immigration impeded and discouraged." The reply of lord Durham was the language of moderation. He counselled those who had addressed him to restrain the violent, encourage the moderate, and set the praiseworthy example of charitable forbearance. His own object was to place in permanent security the interests in which they were concerned. Several addresses were presented to him. To one from the Wesleyan Methodists, he said that in accordance with the prayer of the address he would not fail to exercise the high functions entrusted to him with "justice and mercy"—justice to the guilty, mercy to the misguided. A deputation from the district of Montreal presented an address. The one English name was that of Mr. Leslie; the remaining names were French Canadian. It was not written in the most courteous language. After congratulating lord Durham on

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\* On the 5th of April attorney-general Ogden had reported that after examination he had liberated 340, and that 174 prisoners remained. "Against those liberated there has been adduced more or less evidence implicating them in the late revolt, some have been discharged on bail to appear and answer, others, for the most part *habitants*, appear to have been led astray by their leaders, these have been discharged without bail." [Par. papers, No. 2, 1839, p. 102.]



his arrival, it expressed the hope that, however serious the condition of the country, the rights of her majesty's subjects would be maintained, protected and respected ; adding, that the previous public life of the governor-general confirmed the anticipation of the administration of the law to insure to all classes, without distinction, the protection to which they were entitled. Lord Durham replied that the province was placed in serious circumstances, but the difficulties which attended their solution would be encountered with firmness and energy. The only distinctions he could recognise were those which would arise from a just or improper use of the rights referred to. When their exercise was marked by loyalty to the crown, obedience to the laws and a due regard to the interests of society, these rights would be held to be sacred. When it deviated from its legitimate course for the attainment of seditious and unconstitutional objects, it must and should be restrained.

A few hours after the landing of lord Durham on the 29th of May, an outrage of a monstrous character took place. The steamboat "Sir Robert Peel" put into Well's island, on the New York shore, about three miles below French creek. While taking in wood, it was boarded by a party of from 50 to 70 men, armed with muskets and bayonets, with blackened faces. The leader was one "Bill Johnson," an infamous vagabond, while some three or four men were identified as Canadians. The boat was proceeding on the up trip from Prescott with several cabin and deck passengers, and about midnight arrived off Well's island ; the place where it was customary to take on wood. About two o'clock the vessel was attacked, the passengers and crew were put on shore without their baggage, and the boat was cast off from the wharf. The captain, Armstrong, believing the intention was to place guns in her to be used in some attack, obtained a row boat, and reached the Canadian shore to report the outrage. About 20 minutes after the steamer had been cast off from the wharf, he saw she was in flames, and in a short time was burned to the water's edge.

The passengers, several of whom were ladies, were thus forced on shore, losing all their baggage. The United States steamer, the "Oneida," shortly after arrived, and brought the travellers to Kingston, with the news of the burning of the "Sir Robert Peel."

Lord Durham immediately issued a proclamation offering the reward of £1,000 to any one who would give information to bring to conviction the perpetrator of the outrage, as he was desirous of co-operating with, and giving every facility to the authorities of the United States in the discovery of the criminals. The proclamation stated that for the protection of the frontier line from aggression, a military force would be concentrated at points to assure protection.

A few days later colonel Grey, of the 71st, a distinguished officer, a brother of lady Durham, was sent to Mr. Fox, the British minister plenipotentiary at Washington, to bring the outrage to the notice of the president. The matter had previously formed the subject of a communication from sir George Arthur, the lieutenant-governor of Upper Canada.

The naval officer then in command at Kingston was captain Sandom. He had recommended the employment of small armed vessels with row boats to cruise among the "Thousand islands." The suggestion was sustained by sir John Colborne. The matter was submitted to the vice-admiral, sir Charles Paget, who had lately arrived at Quebec. On application being made to him on the subject, he promptly despatched the requisite number of officers and seamen for the purpose of defence of the river bank, and of craft to sail on its waters to meet similar attacks.

There could scarcely have been a more appropriate appointment to such a mission than that of colonel Grey. His own abilities and status with his father's historic fame gave him a special claim to attention. His intervention was in every way successful. Colonel Grey was received by president Von Buren with courtesy and cordiality. There was evidently a strong desire to preserve amicable relations with Great Britain, a sentiment fully entertained by the

secretary of state, Mr. Forsyth and Mr. Poinsett, the secretary of war.\* It was agreed that unarmed steamers should be employed on lake Erie and lake Ontario, commanded by officers of the army or navy of the United States, each carrying 50 soldiers. A force was ordered to Sackett's harbour "to scour the thousand islands," to enforce the laws of the United States, and general Macombe was ordered to the northern frontier to conduct the operations.

On the side of Canada, sir John Colborne and sir Charles Paget sent instructions to colonel Dundas and captain Sandom to communicate with general Macombe. It was conceived that these measures would quiet the excitement on the frontier. A feeling had been maintained owing to the rumours constantly circulated that the United States government desired to continue this spirit of aggression. The effort was to prove, that it was a misrepresentation of the unscrupulous supporters of the tumult, by which they hoped to profit. The United States government behaved with the greatest straightforwardness and loyalty, and in testimony of their good-will even submitted a copy of the instructions given to general Macombe.

On his side the governor-general was careful to impress upon the United States government that sir Charles Paget was in no way acting in contravention to the declaration of the 20th of April, 1817, and that the steps taken were for the security of the province solely, and no act of distrust towards the United States would be permitted.

The movements which took place in Upper Canada at this date will be narrated in the history of the events in that province.

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\* The few advocates of annexation among us at the time I am writing, who may advance this view as an individual opinion, for otherwise they are without any following or influence, may learn with profit to themselves, that colonel Grey, in narrating his interview with president Van Buren reported that the president asserted that the annexation of Canada to the union was not only far from the wish of the government, but directly contrary to the interests of the United States. [Par. papers, No. 2, 1839, p. 119. Colonel Grey to lord Durham, 22nd June, 1838.]

The safety of the frontier being provided for, the first thought of lord Durham was to deal with the political prisoners. One step towards this proceeding was to increase the numbers of the special council. Admiral sir Charles Paget, general sir James MacDonnell, colonel Grey, colonel Cowper, and Mr. Buller were gazetted as members.

An ordinance was passed by which eight prisoners who had pleaded guilty were transported to Bermuda during the queen's pleasure; and sixteen who had absconded from justice were held to be liable to the punishment of death should they enter the province.

A proclamation was issued at the same date, in the name of the queen, in which it was set forth "that it was not less expedient in Our judgment, than grateful to Our heart, to mark by an act of Royal Grace, Our recollection of the ancient and well proven loyalty of all Our Canadian subjects, rather than by any severity of punishment, Our sense of the recent disaffection of some of them. . . . With the exception of the persons named, no further proceedings should be taken against any person whatever charged with, or chargeable with high treason, without exception or distinction. All persons in custody, and all persons who had withdrawn from the province, on giving security for good behaviour, in the one case should be released; in the other be at liberty to return to their homes and remain wholly unmolested." A more comprehensive amnesty it is not possible to conceive. Thus the first rebellion was terminated without a drop of blood having been judicially shed.

Even the murderers of Weir and Chartrand obtained no special notice. This proceeding of banishing the eight state prisoners to Bermuda was censured in England at the time, and misjudged to the extent that the ordinance was disallowed. It is still misrepresented by British writers and adduced as an arbitrary act, contrary to law and expediency. Nevertheless, there cannot be a doubt that it was dictated by merciful considerations alone. The despatch of

lord Durham in which the event was reported, dwells upon the difficulty in which he was placed, and the desire of meeting it effectually, and with humanity. He acted in accord with the views of sir John Colborne, sir Charles Paget, and, as he himself put it, with those of the heads of what is called the British party. There was on all sides the desire to avoid sanguinary punishment, and it was well known that it would have been unwarrantable to look for a conviction from a jury empanelled in the ordinary course of law. The only mode of trial would have been by a special commission, and in most of the cases the sentence of death must have been passed.\*

It was plain that, however general the amnesty, those who had taken a prominent part in the insurrection could not be permitted to return among the community without some expiation of their conduct. Lord Durham's policy was to induce those compromised to plead guilty and place them-

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\* That the eight so sent to Bermuda had exposed themselves to the severest penalties of the law is indubitable. The following list of their names, shewing the part taken by each in the insurrection, clearly establishes that in no case was the prosecution strained :

Dr. Wolfred Nelson's resistance at Saint Denis on the 23rd of November requires no comment more than to state that 6 men had been killed and 10 wounded in the affair.

R. S. M. Bouchette had been one of the leaders of the body of men entering Canada from Swanton on the 6th of December, and had been wounded in the attempt.

Bonaventure Viger had led the party on the 18th of November when the prisoners Davignon and Demaray were rescued, and four of the escort were wounded ; the head of one of them, Molson, was grazed by a bullet, which an inch lower would have entered his brain.

Siméon Marchesseault was usher of the court at Montreal and had been present at Saint Charles, when Brown abandoned the field ; he commanded the insurgents against the troops and had been active in the agitation.

Godda took command of the insurgents at Saint Césaire and had marched 100 men to Saint Mathias. The defeat at Saint Charles having convinced him of the hopelessness of the cause, the men separated to their homes. After some days wandering in an attempt to escape he was arrested.

Dr. L. H. Masson had been active in the insurrection at Saint Eustache with Chénier, although not present on the 14th of December. He lived at Saint Benoit and had been prominent in the agitation at that place.

Gauvin and Desrivières had been busy agitators during the insurrection, although neither was present at any of the affairs.



selves at the mercy of the crown, and with leniency to deal with their delinquencies; thus to obtain security for the future tranquillity of the province. There was, moreover, a strong feeling that the spirit of further conciliation would have been impolitic, for it would have been misunderstood; and in place of being attributed to magnanimity, it would have been traced to fear of taking extreme measures.

Lord Durham shewed much consideration for the eight persons implicated. He did not think it right to transport them to a convict colony. He did not desire to affix a stigma of moral infamy which public feeling would not sanction, and he was equally desirous not to place the men in a situation hereafter to be regarded as martyrs. The course taken by him was to make known to the prisoners, that he was prepared to exercise his clemency if they would send a petition in the form suggested. The parties themselves preferred to draft their own letter, but it was not acceptable in the first form sent by them. A second letter was written, in which it was said, "they proffered their willingness to plead guilty to avoid the necessity of a trial, and to give as far as in their power tranquillity to our country." Making every allowance for the dangerous position in which they were placed, and their desire not to abandon all self-assertion, the letter was not in the best of taste, but it was accepted by lord Durham. It was sufficient that they had placed themselves at his mercy. They were accordingly sent to Bermuda on H.M.S. the "Vestal."\*

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\* It may here be said that on their return in October, 1838, a letter, signed by Dr. Nelson and Mr. Bouchette, was published in Bermuda, in which it was denied that grace had been asked by them. The correspondence is to be found, Christie, Vol. V., [pp. 223-229]. The first letter to lord Durham, of the 18th of June, 1838, furnishes on its face the reason that it was not acceptable. The second I have alluded to. From Bermuda the exiles proceeded to New York, I am sorry to have to add, to revive their agitation.

## THE SPEECH OF LORD DURHAM.

The following is the speech delivered by lord Durham in the house of lords in accepting the mission to proceed to Canada :

“ My Lords, I think it necessary to address a few words to your Lordships in explanation of the principles which will hereafter influence my conduct, and which, in point of fact, have induced me to accept the office which I now hold. My lords, it is impossible for language to express the reluctance with which I have consented to undertake this duty, and nothing but the most ardent attachment and most determined devotion to her most gracious Majesty’s house and interests, and to the service of my country, could have induced me to place myself and my character in a situation where I fear I cannot answer the expectations of my noble friends who have requested me to undertake this office, or even my own. The noble and illustrious duke, who has spoken with so much candour to-night, has stated that he regrets to hear that the object of these measures which your Lordships are now called on to consider is merely the support of a particular party in Canada. I can assure your Lordships that it is with no such view that I have undertaken my present duty. My duty, as I conceive it, is to assert in the first instance the supremacy of her Majesty’s government, and to vindicate, in the next, the honour and dignity of the law, taking care that it is not set at naught in the remotest cabin, in the remotest settlement of Canada ; and I shall feel that I have not performed that duty whilst the dignity and supremacy of the Crown and the Law continue to be assailed. Having settled these primary and preliminary objects I wish, casting aside all considerations of a French, a British, and a Canadian party—for I will know nothing of a French, a British, or a Canadian party, but will look on them all alike as her Majesty’s subjects—I wish, I repeat, to extend to them all equal justice and equal protection. I will protect, on the one hand, the local rights and privileges of those who may be considered as the proprietors of the soil ; and, on the other hand, those commercial rights and privileges which are considered more peculiarly to affect the British settlers. The noble and learned lord, at the close of the speech which he delivered from the bench below me, said that I have undertaken but a thankless task in carrying out with me to Canada the suspension of its constitution. My lords, on this, as on many other points, I cannot agree with that noble and learned personage (Brougham). These acts ought not to be considered in the light in which the noble and learned lord has been pleased to view them. The constitution of Canada is suspended, not by any act of the British Parliament, but by the rebellious acts of individuals in that Province. I do not consider—if I did I would not undertake the task—I do not consider that I go to Canada to suspend its constitution ; I go there to provide a remedy for an extraordinary state of things, produced by rebels, who have rendered the working of that constitution impracticable. And to execute this honourable, and difficult and dangerous mission—difficult and dangerous, I mean, as affects my reputation—I implore of your Lordships to give me such powers as will enable me to make such a final settlement of these unfortunate differences as will produce final contentment and satisfaction among all parties, and as will not merely assist the dignity of the Crown and the

supremacy of the Law, but will also promote the general happiness and prosperity of one of the most important colonial possessions of great Britain. If I could accomplish this great object, my lords, I should consider no personal sacrifice, not even that of my life, too much, and I can hope to accomplish it by the cordial support of my noble friends below me, her Majesty's Ministers, which I feel sure that I shall meet by the active co-operation of Parliament, which I expect to obtain, and by that generous forbearance on the part of the noble lords opposite, to whom I have been opposed politically all my life, which I am induced to believe they will display towards me from the candour which the noble and illustrious Duke has exhibited on this occasion, as on all other occasions where the public interests have been concerned." [The noble earl then sat down amidst loud cheering from both sides of the house.]

## CHAPTER V.

Considering the importance to the province of a well conducted system of emigration, lord Durham, in June, 1838, issued a commission to inquire as to the best mode of obtaining this result throughout British North America ; likewise, to devise some means of obtaining revenue from the waste lands ; anticipating that the increase of population would add to the general prosperity. On the 7th of July, he left Quebec for Montreal and Western Canada. In Montreal he was received with enthusiasm, the more gratifying that he expected to have been met in some quarters with coldness or disapprobation, owing to the strong party feeling which prevailed. He received a deputation of 200 of the most prominent citizens, who presented an address assuring him of their co-operation in endeavouring to establish peace and harmony. The Roman catholic bishop with his clergy likewise waited upon him. On the 10th, he left Montreal. Taking the boat on the Saint Lawrence at Prescott, he sailed through the Thousand islands to Kingston, where he arrived on the 11th. In every town through which he passed he was warmly and cordially welcomed. From Kingston he proceeded to Niagara, where he arrived on the morning of the 13th. At Queenston he was joined by sir John Colborne. They rode to the town of Niagara, where they were met by sir George Arthur. There they found the 43rd encamped, that regiment having lately arrived from Montreal. The next day they ascended by the Niagara river to fort Erie. Buffalo attracted his attention. It had the bad reputation in those days of being the headquarters of the turbulent population infesting the frontier. What struck lord Durham in its appearance was the respectability of the buildings, and the

number of masts he could discern in the harbour ; a proof of the value of the commerce the place could command, and of the wisdom that in ten years had created a city in a wilderness ; prosperity he assigned to the Erie canal. All these advantages, wrote lord Durham, might belong to Canada. He pointed out the commercial benefits already obtained from the Welland canal, and he strongly advocated "the completion of the water communication by the Saint Lawrence." "I feel so strongly the importance of this subject," he wrote, "both as the means of restoring tranquillity to the Canadas, and blessing to the North American provinces, with a degree of prosperity which has never yet been afforded them, that I feel it my duty to press it on the immediate attention of her majesty's government. I would ask for them a grant of money," and he proceeded to state the conditions on which the loan should be made.

It may be stated here that lord Glenelg wrote on the subject of the Canadian canals on the 23rd of August, that the completion of the water communication would receive the most serious attention. The subject had proved one of no common difficulty in the house of commons, owing to the expenditure in former times for similar undertakings : an unmistakeable allusion to the Rideau navigation. Lord Durham was, nevertheless, directed to communicate with the officers of the ordnance to obtain the employment of a well qualified engineer to make a survey from lake Erie to the sea, and prepare a report upon the expense of completing the necessary work and the time it would occupy. It was, on the other hand, to be distinctly understood that these preliminary operations did not pledge the government to an advance of the money necessary to carry out the undertaking.

On the 17th he was again in Niagara. There were present a squadron of the King's Dragoon Guards, a battery of artillery, the 43rd regiment, and a detachment of the 24th. The troops were inspected and a review took place. Notice had been given of the event some days previously, and



the ground was crowded by visitors from the States. The object of the governor-general and sir John Colborne was to shew that the Canadian bank of the river was strongly garrisoned. After the review lord Durham gave an official dinner. Among those present were the chief British inhabitants of the place, and the officer in command of fort Niagara on the United States side and "such of his countrymen as he thought proper to present to the governor-general."

On the 18th he left Niagara, after having been presented with addresses from the magistrates and citizens. He visited Port Dalhousie, the debouchure of the Welland canal, and reached Toronto at 4 o'clock. He was there warmly received. The most prominent persons of the city waited upon him, and addresses were presented by the clergy of the church of England, by the Wesleyan Methodists, and by her majesty's "dutiful and loyal" subjects of Toronto. In his reply, lord Durham said that no portion of the queen's subjects would obtain more solicitude and protection than those of the British American provinces. "They are some of the most precious ornaments of the crown of Great Britain. Their eternal connection with the crown should be the object of every British statesman who values the safety and prosperity of the empire." On the 19th lord Durham returned to Montreal. As he descended the Saint Lawrence, he saw at Wells island the wreck of the "Sir Robert Peel." He heard at Kingston that two of "Bill Johnson's" men had been arrested, with a quantity of arms and ammunition, and had been delivered over to the United States authorities. Johnson himself had managed to escape.

Some uncertainty having arisen as to the court of appeal, lord Durham summoned from the executive council, only the chief-justices of Montreal and Quebec, with a judge of each court. Hitherto the executive council had constituted this court. Acting on the advice of the attorney-general, sir William Garrow, and the solicitor-general, sir Samuel Shepherd, lord Durham did not summon the members "who had

no legal education." As a temporary arrangement, the proceeding accorded with public feeling.

On the 9th of August lord Durham wrote an important despatch.\* It is of value as containing the impressions formed of the condition of the province by an able and experienced statesman, honestly actuated by the desire of performing his duty. It was to some extent the forerunner of his more celebrated report. That the condition of the province at this date was that of disorganization may be accepted; but it may be doubted if the picture he presented of it can be accepted as entirely just and accurate. There certainly was not the extreme disorder he described. Lord Durham started on the theory of the bitter animosity existing between the French Canadians and the British, "not as two parties holding different opinions, but as different races engaged in a national contest." He ignored the fact that for the first half century after the conquest there had been no such feeling. Intermarriages had been frequent, and they had not differed from the general consequences of wedlock, even when there is perfect affinity of race and language. Some were happy, others unfortunately not so: in the latter case, it may be presumed with the old explanation that there were faults on both sides. The arbitrary *doctrinaire* government of the colonial office was the objectionable influence that had prevailed previous to the union. We have only to look to much in the national history of that time to explain the restrictive system of interference exercised in the colonies. After the war of 1812, and in the pre-reform days, the French Canadians more directly demanded a greater participation in the administration of affairs, and the explanation of the failure to meet the demand lies in the truth, that the beneficent principles of colonial government, now recognised, were not acted upon, for they were not known. Lord Durham, in describing this strong antagonism of race, ignored the previous history of the province, and in this sense failed to represent its true condition. There were unfortunately strong feelings of antagonism, but

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\* [Par. papers, No. 2, 1839, p. 152.]

they had been called out more by circumstance, than created by instinct. The French Canadian even at this time had much more of the English character in his nature than he was himself aware ; a sentiment that has by no means since decreased. In the parishes French was alone spoken, and the union of distinctness of nationality was encouraged by the Roman Catholic observances, which undoubtedly teach with much force the sentiment of *idem velle, idem nolle* upon which Sallust dwells. The official circle of Quebec kept within itself all patronage, to the exclusion both of the French and English-speaking population. As a consequence, every liberal demand was crushed down by its influence. Had the French Canadian leaders understood their true policy, they would have enlisted the British population on their side to attack this exclusiveness, for they had no respect for the pretentious spirit that it maintained. Unfortunately, the British were virtually without representation in the house, and the majority did not accept their position as representing the whole population of the province, but as advocates of French Canadian influence only, year by year increasing their pretensions to make dominant their rule. Lord Durham in this despatch dwells on the strong feeling of alienation which had grown up between the races, but he failed to probe the cause of the dissension. He recognised the conservative character of the French Canadian, and the active energy of the British which gave them an influence out of proportion to their numbers. He described the intensity of the hostility by the passions having been excited in a contest in which "the victorious minority suffered extreme fear at the beginning, and the subdued majority had been led to hope everything from an appeal to arms."

Those who have followed the narrative I have endeavoured to present cannot fail to see the groundlessness of this view. As the crisis was approaching, no faltering on the part of the British party in its preparations to meet it can anywhere be traced. As the more thoughtful of the French Canadians understood the danger attendant upon Papineau's agitation,

they withdrew from its support, on the political ground that the length to which it was carried was inexpedient and hazardous. The principal adherents of the movement were young, inexperienced men, who founded their only hope of political advancement on the countenance of Mr. Papineau, and we hear little of their determination as leaders in the crisis of the danger.

As Mr. Papineau's agitation increased, it assumed a purely French Canadian character. No constitutional principle was involved. The misrepresentation of fact in the resolutions passed by the house, and the opposition to measures affecting British interests, such as emigration, the Tenure act, the British American land company, and an arrangement with Upper Canada on the collection of duties, awoke an antipathy the more strong, as the firm belief arose that there was an attempt to make Lower Canada a French Canadian province. The antagonism was political, not social, and although there was an absence of all interchange of courtesies, lord Durham was not justified in describing the feeling as one of bitter animosity, although the relationship was undoubtedly strained to an extreme tension. He, however, penetrated this fact, that although the British party was opposed to the violent measures and proceedings of the majority of the assembly, and expressed their adherence to the constitution, they were likewise advocates of change and reform. Whatever the views of the officials at Quebec, there was a very strong party who felt that the influence of the colonial office was not exercised for the good of the province, and they desired to obtain a greater extension of political power, or, as lord Durham expressed it, "a more responsible government;" a sentiment not entertained by the French Canadian leaders, who advocated the elective legislative council, which, from their numbers, would have made them dominant.

Lord Durham made a charge against the holders of office which was without justification. He described the executive as neglectful and corrupt, and said that there was ample ground for the distrust and suspicion with which the government was

regarded. When a grave charge of this character is made, it should not be confined to assertion, but the ground on which it is based should be clearly stated. I know no evidence which can sustain it, if the term "corrupt" means misappropriation of the public money. The shortcomings of the officials were that they kept power for themselves and their connections, and were often deficient in breadth of view, that they were opposed to liberal legislation, and were exceedingly arrogant. However undesirable this state of affairs may be, it cannot with justice be called "corrupt." Lord Durham formed no favourable opinion of the official class. His own words are worthy of record: "Your lordship," he wrote, "is informed of the general satisfaction expressed by the British party at my having, when I assumed the government, avoided connecting myself with the old body of officials. It may be supposed that the body in question did not participate in that sentiment. I very soon became aware, therefore, of the existence of some difference between the official body and the British in general. Subsequent observation has convinced me that, except in common hostility to the Canadians, there is no sympathy between the two classes."

The summary of the situation made by lord Durham was that the bulk of the French Canadian people were as disaffected as ever, and that the British part of the population regarded them with vindictive jealousy; the imperial government being distrusted by both parties.

Another important subject considered by him was the relation of the provinces with the United States. The government, in his opinion, and the vast majority of the better classes were opposed to a rupture with Great Britain; but few were aware of the true causes that had led to this insurrection. The general opinion was that, without distinction of race, the majority had risen up against the bad government of the executive, and the recollection of their own struggles of 1776 had awakened sympathy with those in arms against authority. This feeling was extremely strong on the frontier. The young, active and energetic saw in the opportunity a



chance of distinction and affluence. There was a belief that their national strength would assure the eventual success of any popular enterprise. The policy they would follow would be to avoid conflict with the regular troops, and by multiplying attacks, to tire out the forces engaged. They counted, moreover, on being sustained by large numbers of the population of the province. They were encouraged in this project by what had happened at Texas. There was no immediate danger to be apprehended, but the events of that expedition were considered to indicate the character of the contest, should it take place. Lord Durham's remedy for the pacification of the province was to remove the power of legislation on British interests from the control of the French Canadian majority: an object legitimately to be effected without violence to any political rights and in strict accordance with the soundest constitutional principles.

In September, the trial of Francis Nicholas, Amable Daunais, Joseph and Gidéon Pinsonnault, for the murder of Chartrand took place. I have already related this crime,\* committed without provocation in cold blood, at Saint John's, on the 27th of November, 1837. The defence of Mr. Charles Mondelet, who had to deal with evidence, as was said at the time, not only "unquestioned, but unquestionable," was an appeal to the prejudices and passions of the jury. He declared that the government was afraid to accuse and try the prisoners before a jury of their countrymen, for high treason; and that the state sought to gratify its malice and vindictiveness by an indirect proceeding. He did not attempt to deny the participation of the prisoners in the murder, but the offence was merged in the higher crime of high treason; a crime for which the government dared not prosecute. He instanced that their colleagues in guilt had dyed their hands in blood at Saint Denis, Saint Charles, and Saint Eustache; nevertheless, by royal proclamation, they had been exempted from punishment; that during the rebellion the murdered man had been a spy and an enemy to his country, and as such

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\* [Ante, p. 69.]

had deservedly been put to death by the sentence of his fellows. If there were any fault, it was on the part of the government that the country had been allowed to fall into anarchy. In half an hour the jury returned the verdict of "not guilty." Can it be a matter of surprise, owing to this disgraceful miscarriage of justice, that after the second rebellion of 1838 prisoners were tried by a court-martial? Justice was, however, in a few months satisfied to some extent, for Nicholas and Daunais, convicted of active participation in the conspiracy of 1838, were hanged on the 15th of February. The murder of Chartrand made a profound sensation; and that the perpetrators of the crime should be acquitted caused a feeling of dissatisfied uncertainty that it would be difficult at this day to analyse.

The news of the course taken by lord Durham in sending into exile the eight prisoners reached England in July. The ordinance was denounced by the opposition, it cannot be doubted as much from the desire to embarrass the government, as for the vindication of any constitutional principle that Durham was accused of violating. It was asserted that the design of parliament was to create a deliberative council, whereas Durham had nominated a body of his own dependants, subsequently adding military and naval officers on service. The powers given to him were doubtless extensive, but he had been vested with authority according to the laws of England. He was called to account for sentencing unconvicted prisoners to transportation, and for sending them to Bermuda, a proceeding totally beyond his powers. The governor of the island had seen that he could not legally detain the prisoners, and had written to Durham asking that they might be removed.

In the house of commons, sir Edward Sugden, afterwards lord Saint Leonards, attacked Durham for the composition of his council. He declared that the spirit of the act had been violated by its limitation to five members. In the house of lords the opposition was led by lord Lyndhurst and lord Brougham, who entertained personal ill-feeling against Durham, the consequence of a former quarrel. Their argu-

ment was that the banishment of men without a trial to a colony in which Durham had no power was entirely illegal, a fact made more apparent by the protest of the governor of that island. The government admitted that the selection of Bermuda was a mistake, but the ordinance was justified by the trying circumstances in which Durham had been placed. Had Durham been one of those men so often met, whose charm of character awakens the friendship and calls forth the sympathy of their fellows, there would have been a rally to his support. But Durham's personality was not in his favour; his arrogance, his self-assertion, his fearless denunciation of opposition to his views had alienated many who admitted his talents and recognised his patriotism. He was unsustained by the "following" that so often plays a part in politics. No touch of nature on his part had made kin of any members of the house of lords. The house looked coldly on him; prominent in the feeling was the premier. There was no counter influence to affect his epicurean character, to awaken him to an effort in Durham's defence. Indeed, Durham was generally deserted by his colleagues, with the honourable exception of lord John Russell.\* Modern British writers in too many cases still fail to do justice to lord Durham. In Canada his conduct has received full support, especially in breaking with the long constituted cliques, that he conceived would embarrass his policy by stolid resistance to it. He found the province in a state of confusion. His effort was to redeem this legacy of the past and re-establish the future. It was, moreover, a provisional, and not a final act of legislation in which he was engaged; and his whole policy would have been modified so soon as quiet times returned. Even if he strained the power he held, he had for his act the plea of necessity. His ordinance banishing the eight leaders of the rebellion was dictated by humanity

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\* On this point lord Durham wrote very plainly to lord John: "I do not conceal from you that my feelings have been deeply wounded by the conduct of the ministry. From you, and you alone of them all, have I received any cordial support personally, and I feel, as I have told you in a former letter, very grateful to you." [Walpole's life of lord John Russell, Vol. I., p. 308.]

alone, in order that he might vindicate the law, and inflict punishment in a milder form than that of the more painful sentence, which would have been pronounced by a sterner tribunal. Lord Durham received no support from the ministry who had enforced on him the difficult duty he had to perform. It remains to Canada to do justice to the sagacity, wisdom and courage with which he acted in the crisis: a position not sought by him, but undertaken from a sense of patriotism. With us his name will ever be revered and honoured. In the mother country, to use the words of that renowned prelate, Magee, archbishop of York, he was "asphyxiated by lawyers."

Brougham had no regard for the ministry of lord Melbourne. The premier had excluded him from his cabinet, owing to the breach of confidence of which he had been guilty on the dismissal of the ministry by the king. Brougham had authorised the statement that appeared in the *Times* the following morning, made with the force of the writers of that journal, that the cause of the dismissal was the intervention of the tory queen Adelaide. Brougham felt acutely the retaliation, for as it proved it was his banishment from official life. He now saw that the time had come when it would be recognised that he was still a power.\* As he spoke he was received with conservative cheers, not a usual accompaniment of his speeches, and with little to repress him in the feeble defence made of lord Durham in the house of lords. He therefore introduced a bill for explaining the Canada act, indemnifying those who had issued, or acted under a certain ordinance. The bill was read a second time on the 9th of August and passed by a majority of 54 to 36. On the following day lord Melbourne announced that the ministry was prepared to disallow the ordinance, and accept the indemnity clause of the bill.

Lord Glenelg had acknowledged the despatch from Canada announcing the disposition of the prisoners, and stated that it had afforded satisfaction, that Durham had been able to sur-

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\* His influence had so passed away that it was said of him in allusion to his title "Brougham and Vaux," that he was "Vox et præterea nihil."

mount the difficulties by a course of action favourably received in the province; equally free from the imputation of too great severity, or of excessive and ill-considered leniency. He suggested, however, that legal objections might occur as to some provisions of the ordinance.

On the 18th of August, Glenelg again wrote enclosing the report of the law officers of the crown, that the restrictions relative to Bermuda were void, as the jurisdiction of the governor-general did not extend beyond Canada. In other respects that "the provisions of the ordinance were within the competency of the council."

He then related that the bill had been introduced into the house of lords, and that the government most reluctantly advised her majesty to disallow the ordinance.

The colonial secretary expressed the queen's approbation of the ordinance, by which, with the exception of the 23 persons named, an amnesty had been granted to all charged with treason. The eight persons sent to Bermuda should not be permitted to return to Canada, and he recommended the passage of an ordinance subjecting any so returning, without permission, to some punishment short of death.

With regard to those persons who had previously fled from justice it should be made known by proclamation that should they re-enter the province without leave, they would be arrested and dealt with on a charge of high treason. It would also be desirable to continue, or renew the suspension of the habeas corpus, that they might be detained in custody. Lord Durham was assured of the deep regret of the government at the embarrassment to which he had been subjected. "On a deliberate review of the whole case," lord Glenelg wrote, "her majesty's government are enabled distinctly to repeat their approbation of the spirit in which those measures were conceived, and to state their conviction that they have been dictated by a judicious and enlightened humanity, and were calculated under your authority to satisfy the ends of justice, although in some respects they involved a departure from its ordinary forms." Durham was further told that they



were persuaded that he would be equally anxious to avoid a possible ground for cavil or obnoxious criticism, and he was assured of the undiminished confidence reposed in him.

Had lord Durham been a needy person and his office a consideration with him, he probably would have accepted the situation and made the best of it. There have been scores of such examples, when men who have ably performed their duty received scant justice from a ministry, and in a crisis where they shewed courage and judgment have been sacrificed to the exigencies of party, and to the want of courage of the executive in facing consequences which had called forth criticism. Lord Durham was not in this situation. He had accepted the position with unwillingness, and had early seen that he required extraordinary powers to re-establish order and good government, and without this support his mission would be a failure. It must be admitted that lord Durham's manners were often repelling, certainly not pleasing, but in his political communications he impressed all whom he met. He broke with the old traditions of provincial life, and those persons who formed the old cliques, with their supporters, had no deferential words to utter in his behalf; but it is indisputable, that he carried the British population with him. He had obtained the confidence of the whole community, and it was felt that his breadth of view would undoubtedly be exerted for the public weal. Moreover, he had succeeded in gaining the good-will of the United States authorities. With the people likewise that lived on the border a kindlier feeling had grown up, and restraint was exercised on the less scrupulous who had threatened to be turbulent.

The proceedings in the house of lords deeply affected the higher commercial classes in England who were interested in Canadian prosperity. The North American colonial association passed resolutions expressing their conviction, that the discussions that had been raised in parliament with regard to Lower Canada would tend to destroy British power and influence, by encouraging the disaffected and

disheartening the loyal. They solemnly declared their serious apprehensions that the discussions were calculated to retard the pacification, if they did not cause the loss of the colony. These resolutions were sent to lord Glenelg, lord John Russell, Wellington and Peel. Following on these proceedings, 32 firms of the highest character, including such men as Glynn, Halifax, and Smith, Payne and Smith, addressed a letter to lord Melbourne with a request that a copy might be sent to lord Durham. This communication had its direct influence, for Glenelg, when communicating it, expressed the satisfaction with which it had been received. This high testimony to the character and tendency of Durham's policy, the value of which was enhanced by the circumstance that it was spontaneously preferred by persons who had a stake in the province, and who possessed the best means of ascertaining the sentiments generally entertained, is a document of the highest historical value. Nevertheless, modern writers speak of Durham with habitual disrespect, of his want of judgment and his incapacity for rule. One of them lays stress on the remonstrance of the governor of Bermuda, because he had no authority to retain the prisoners sent there, and adduced this trumpery illegality as a proof of his depreciatory estimate of the man. If the proceeding was not strictly legal, "it was one of mercy and forgiveness, not of tyranny and oppression," and it was the duty of the home government to have legalised and confirmed it, whatever the vote of the house of lords on its questionable legal character.

This important letter represented the view taken of lord Durham's proceedings by men interested in the welfare of Canada, who received confidential news from the province, and were acquainted with its history. It signified the regret of the writers that the ordinances should be disallowed, "seeing the conflicting opinions expressed in parliament in regard to them," when they had been considered in Canada by the inhabitants of French and British origin as best calculated to restore peace. The fullest assurances were expressed,

based on their correspondence with the colony, in lord Durham's wisdom, impartiality and lenity. If he had exceeded his powers, it had been to save the lives of men accused of treason, who would have been found guilty, and doomed to death by an English, though in all probability they would have been acquitted by a French Canadian jury. They could not view any change in the administration at present but with terror and dismay, and prayed that lord Durham might continue to administer the affairs, until he had matured a system of government and reconciled all parties to the dominion of the imperial government.\*

Between the 25th of September and the 1st of November, when lord Durham left for England, he wrote a series of despatches in his own justification. No one can peruse them without being struck by their power. He complained of the want of support he had received in the house of lords since his departure. It was essential that the belief should exist that he would be cordially supported by the ministers of the crown, in the exercise of the extreme authority given him. He alluded to the expressive silence of the prime minister on the 4th of July, when the duke of Wellington had said that "the act had given no power further than making reports on the government of Canada, and that no powers not ordinarily given had been conferred upon him." In 48 hours after the publication of this speech in Canada, the tone of the French Canadian press was changed. It gave no longer evidence of submission, but of discontent, irritation and sedition. From that date he received intimation of a state of feeling in the district of Montreal, which, if it did not threaten actual disturbance during the winter, at least bore testimony to so much combination of purpose and activity amongst the disaffected, as to call for great vigilance. The influence it had exercised on the British race was one of despondency ; it suggested that they were to be left without definite support. Lord Durham was at the time suffering from severe illness, and this state of discontent

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\* [This letter is to be found, Par. papers, No. 2, 1839, p. 67.]

had the most discouraging effect upon himself. He felt the difficulties of his position increased by the attacks of the opposition, and that he could rely for ultimate success on only two sources of strength; the great extent of the legal powers conferred on him, enhanced morally by the universal expression of satisfaction in England that he had undertaken to exercise them; secondly, the impression in the province that he could count upon the support of the home ministry. Owing to the belief that his possession of the prestige of this support had passed away, he had been greatly tempted to resign. He had received the despatches conveying the most distinct approval of the measures he had taken, including the proclamation and ordinance relating to the political prisoners. While these despatches and letters were before him, a United States paper reached Quebec, which, to his astonishment, contained the report of the proceedings in the house of lords on the 7th, 9th and 10th of August. Public opinion had been greatly affected by this intelligence, and lord Durham had consequently resolved to resign an authority, inadequate to the ends for which it had been created. Reserving, until he received the official account of the proceedings, his explanation of the grounds for having formed this determination, he would then decide upon the time for carrying it into effect.

Three days later lord Durham wrote defending the ordinances he had passed. He argued that he possessed the power of legislation that the ordinance enforced. It was perfectly well understood that he was without authority to bind the Bermuda government. The object of the ordinance was recited in its title, "to provide for the present security of the province, by effectually preventing the several persons named in it from being at large therein." "I maintain," wrote lord Durham, "that in no respect is the ordinance illegal, although in part it might have been inoperative without the co-operation of ministers and parliament."

On the same date, the 28th of September, he gave at length his reasons for resigning his commission. No one,

after reading this paper, can refuse his sympathy to its writer. It is worded with dignity and ability. Lord Durham considered that he had been condemned on the ground of having acted illegally. He argued that lord Brougham's bill should have been opposed by the government, and that an adverse vote would have had no influence on the position of the ministry. It appeared by the law, as if he should be held secure from all legal proceedings by the prisoners, whose property as well as whose lives he had spared. The ordinance in question was but the commencement of the policy he had designed. It had been authoritatively stated that it was his intention to have introduced a jury law ; a bankrupt law ; to have remodelled the judicial and municipal institutions ; to have considered the state of education ; the re-establishment of registry offices and the equitable commutation of the feudal tenure. As to the past, he had proclaimed forgiveness and oblivion ; as to the future, the establishment of British institutions lay before him ; as to the present, security against the disaffected. If he had described his own policy aright, he would not err in representing that of the imperial government, as being one for the production of insecurity for the present, and of doubt, uncertainty and want of confidence for the future.

Lord Durham, in justifying his ordinance, pointed out that if the lawyers were technically right, it was the business of a wise government and legislature to correct the errors and to supply any imperfect legislation on his part, which had their origin in a zeal for humanity, and for the integrity of the empire. It had not been denied by any one whose opinion had weight, that his policy possessed the merit of extending substantial justice and mercy, and had evinced sound discretion. If the government had considered the ordinance to be inoperative, they should have given it effect ; if illegal, they should have made it law.

The ordinance of banishment recommended by lord Glenelg, that would include Mr. Papineau and others without trial, or confession of guilt, would be liable to the same objections



as had been urged against the ordinance that had been passed. He did not feel sure that the same power which induced the cancellation of one act of which the ministry had declared its disapprobation, might not compel them to disallow the very act suggested by themselves. Lord Glenelg had in a passing remark recommended the suspension of the habeas corpus. Lord Durham wrote that he was aware that such a course had been approved by some of the speakers in parliament, who professed the highest regard for the constitution. He could not himself be induced to rate as unimportant this great guarantee of personal liberty; "on the contrary, he held it quite as important, and quite as sacred that it should be kept from needless and unnecessary violation, as any, without exception, of the provisions made for fair and open trial. . . . I see no necessity on account of any existing event in the province for such suspension."

He did not instantly resign his authority, because he had made engagements, and imposed upon himself obligations which it was necessary to fulfil. He had set on foot the reform of grievances long suffered. He had held out hopes and made virtual promises, to which every sense of honour and truth commanded him to give effect. In his character of high commissioner he had instituted inquiries; and, considering the expenses incurred, and "*the lamentable want of information upon these subjects which prevails in the imperial parliament, he would take shame to himself*"\* if he left his inquiry incomplete." In a few weeks nothing essential would be left undone, and he would return to England without loss of time and lay his commission at the feet of the queen. He might be able to render his mission productive of good by establishing the necessity of steadily pursuing towards these colonies a very different policy from that hitherto adopted. "Even," wrote lord Durham, "if I can do no other good, I shall be able to use my experience of this colony in checking the prevailing disposition of parliament to decide on the vital

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\* This sentence has been put in italic by the writer from the conviction that even at this date it may on some occasions be appropriately remembered.

interests of this distant community according to the principles of a constitution, and the feelings of a state of society the least analogous to those which prevail here. The government of the province requires something more than a knowledge of the commerce and statute law of England."

The few weeks lord Durham passed in Canada were devoted to the consummation of the several matters he had undertaken and to the completion of the information necessary to the report it was his special duty to present. One point he explained regarding the accusation made against him, that he had established a court of appeal. Even if he had so acted he would simply have supplied a public want. The executive council had always constituted the court. Lord Durham swore in some judges as members of council, and those only he summoned, excluding all who had had no legal education.

When it became known that lord Durham had resigned, consequent upon the disallowance of the ordinance, a great change took place in public feeling. The constitutional party, which now included many French Canadians, who had ranged themselves on the side of the government, felt that the promise of a better state of things had passed away, and that the imperial ministry had reverted to its former weak, vacillating and depressing policy. Those who had served the government dreaded that after all these efforts the old state of things was to be re-established. The ordinance had commanded universal respect, although for a brief period the sentiment had not been wanting, that if it possessed a fault, it was too merciful. Under any point of view, it had not been looked upon as a sign of weakness, or want of judgment. By the course followed by the imperial government, authority had paralysed opinion. Many saw in the weakness of the proceedings the approaching separation from the mother country, and people who, a few months previously, had expressed strong anger against the frontier population of the United States for the encouragement given to the insurrection, now commenced to speak of the United States as a kindred people whose sympathies with the British race they

could always command. In the country parishes of the district of Montreal the whole spirit of disaffection had been re-awakened. The government was regarded as utterly paralysed and without courage to act. At the trial of the murderers of Chartrand, his associates had declared that it had not dared to make the charge of high treason against the perpetrators of the crime. Reports were carefully spread of the certain co-operation of crowds of sympathisers from the United States, who would come in such numbers as to make the presence of the military of little account. The course pursued by the house of lords was regarded as a victory on the part of those who had made the cause of the house of assembly their own. It was believed that all power to deal adversely with the French Canadian claims had been taken away, and that the old policy of conciliation was still to be pursued ; consequently there was a renewal of the efforts to create disaffection and agitation, and the preparations for another insurrection, which had been checked, again became actively mischievous. This organisation included in its ramifications a large number of adventurous young men within the United States frontier, with no particular sympathy for Canada, but bent on making the province the scene of the exploits which had gained such fame in Texas.

Lord Durham had received constant information of these proceedings ; they had besides been brought to the notice of sir John Colborne, when they threatened to lead to serious disturbances. At the request of Colborne, a regiment was transferred from Nova Scotia. So convinced were both Durham and Colborne of the threatened complications, that in the middle of October lord Durham gave over the duty of defending the province to the commander of the forces. Consequently, Colborne called out the volunteers, and took means to guard the frontier.

In September a deputation from the maritime provinces had reached Quebec. It included prominent men from Nova Scotia, New Brunswick and Prince Edward island, to confer

on the subject of the general government of British North America. Lord Durham had entertained the advisability of joining in confederation the whole North American British provinces. In April a paper had been placed in his hands by lord Glenelg, written by Mr. Andrew Stuart, containing the heads of objection to a federative union. The conclusion expressed was that the measure "would leave the existing evils without remedy, and superadd others of comparative magnitude, affecting injuriously the Canadas and the other British provinces." The discussion was abruptly terminated by the news of the disallowance of the ordinance and the consequent resignation of the governor-general. The address of the thirteen prominent men, representing three provinces, shews the painful anxiety felt throughout British America with which the intelligence of Durham's departure was received and which has been so completely ignored by British writers. The addresses expressed the concern felt at the rumoured resignation of the governor-general. It set forth the prevalent conviction of his desire to elevate the colonies, and the conceptions he had formed to render that desire effective. He had blended mercy with justice; his administration had been conducted without the sacrifice of one life; and then there appeared a reasonable prospect of restored confidence and renewed prosperity. In the maritime provinces they saw the dawning of vigour and improvement hitherto unknown. "With your lordship's departure," the text continued, "those anticipations will, we fear, fade away." They were unwilling to abandon the hope that he might yet continue in the administration of his high office. This declaration may be accepted as the verdict of history.

Lord Durham acknowledged the address. After speaking of his personal gratification at receiving it, he had but one step to take, to resign the authority which had been so weakened as to be totally inadequate to the emergency.

Addresses followed from all the cities, Quebec, Montreal, Kingston, Toronto. They all breathed the same hope that, notwithstanding the unlooked for obstructions, he might

be induced to continue the functions of his office, and the opinion was expressed that the premature discussion in the British parliament had weakened the moral influence of his government, encouraged the disaffected and created apprehension in the minds of the loyal.

The address from Toronto set forth that they had learned with great concern, as well as with just grounds of apprehension, the position which certain noble lords in the British house of peers had thought necessary to assume. At that important crisis, any circumstance tending to destroy confidence in the stability of the power of the government could not fail to be productive of the most disastrous results, encouraging faction, and paralysing the industry and enterprise of the province. It was the same with Kingston and Montreal; lord Durham was implored not to leave the province.

On the 9th of October lord Durham issued a proclamation explaining the circumstances under which he had felt called upon to resign his position. The same *Gazette* contained the act of indemnity for persons, advising and acting under the ordinance of the 28th of June, which cannot be justified by law. As might be expected, the proceeding was exceedingly distasteful to the British ministry. On the 15th of November Glenelg wrote lord Durham that it was not merely a deviation from the course invariably pursued, but was a dangerous departure from the practice and principles of the constitution. It was open to most serious objection, as an appeal to the public against the measures of parliament. He had received the queen's command to signify his disapprobation of the proclamation, and the government was compelled to admit that his continuance in the government of British North America could be attended with no beneficial results. He presumed, however, that before the receipt of the despatch the government would have been given over to sir John Colborne.

In eleven days after this date, lord Durham arrived in England. He had previously stated his determination to resign and at length had given his reason for the step. That



lord Glenelg should tell him his continuance in the government would be attended with "no beneficial results," partook of a feminine spirit, that so often perseveringly contends for the last word. That the proclamation was unconstitutional will by no means be generally admitted. In extraordinary circumstances of great emergency, lord Durham had been sent to Canada; the constitution of the province was suspended; the prisons were crowded by the persons who had been engaged in the insurrection; the whole country more or less prostrate from the disarrangement of every walk of life which the rebellion had caused. A reconstruction of society was required, and one of the first duties was to deal with the disaffected prisoners. On technical legal grounds the ordinance which obtained the support of the whole province was disallowed, and the entire situation had become changed. Lord Durham has been represented as having in a fit of temper thrown up his position and having immediately left the province. No assertion is so untrue. He received the news of the proceedings in parliament on the 25th of September. On that day he notified the government of his resignation, but he remained at his post until the 1st of November, to close up such matters in his administration as he deemed it necessary to complete. From all sides he received expressions of sympathy, of recognition of the wisdom of his policy, and from all directions he heard the hope expressed that he would remain in Canada. He certainly possessed the right to say definitely, why he could not act in accordance with the wishes so favourably and so universally expressed. To affirm that a public man has no right of self-justification against what he holds to be the arbitrary and unjust proceedings of a ministry, is to refuse the privilege granted to the most degraded criminal standing at the bar of justice. Lord Durham had been arraigned in the court of public opinion, and he felt himself justified in setting his case clearly before the people of the province, who had expressed approval of his conduct, accord with his policy, confidence in his wisdom and justice, and deep sorrow at his departure from Canada.

What really made the proclamation of lord Durham objectionable was the force with which his argument was advanced. It was a bill of indictment of the imperial government. He had assumed, he said, the government on clear conditions, and had not shrunk from assuming the awful responsibility of power, freed from constitutional restraints, in the hope that by exercising it with justice, with mildness, and with vigour, he might secure the happiness of all classes, and facilitate the speedy and permanent restoration of their liberties. He had never dreamed of applying the theory or the practice of the British constitution to a country, the constitution of which had been suspended, where all representative government was annihilated and the people deprived of control over their own affairs. His aim had been to elevate the province of Lower Canada to a thoroughly British character, to confer on an united people a more extensive enjoyment of a free and responsible government, and to merge the petty jealousies of a small community and the odious animosities of origin in the higher feelings of a nobler and more comprehensive nationality. To give effect to this view, it was necessary that his powers of government should be as strong as extensive. "It were well, indeed," added lord Durham, almost writing with the spirit of prophecy, "if such were the ordinary tenure of government in colonies, and that your local administration should always enjoy so much of the confidence of those with whom rests the ultimate decision of your affairs, that it might ever rely on being allowed to carry out its policy to completion, and on being supported in giving effect to its promises and commands." He had trusted that he should enjoy all the strength which the cordial and steadfast support of the authorities at home could give. In these expectations he had been disappointed. "From the very commencement of my task, the minutest details of my administration have been exposed to incessant criticism in a spirit which has evinced an entire ignorance of the state of this country, and of the only mode in which the

supremacy of the British crown can here be upheld and exercised. Those who have in the British legislature systematically depreciated my powers, and the ministers of the crown, by their tacit acquiescence therein, have produced the effect of making it too clear that my authority is inadequate for the emergency which called it into existence. At length an act of my government, the first and most important which was brought under the notice of the authorities at home, has been annulled ; and the entire policy, of which that act was a small though essential part, has thus been defeated."

He spoke of the justification his policy had received, of the success of his intervention with the United States authorities, of the recognition that the rectitude of his policy had obtained, and the fact that the ordinance had been disallowed from no doubt of its substantial merits. His desire had been to raise the defective institutions of Lower Canada to the level of British civilization and freedom, and to remove all impediments to the course of British enterprise. "You will easily believe that, after all the exertions which I have made, it is with feelings of deep disappointment that I find myself thus suddenly deprived of the power of conferring great benefit on that province, to which I have referred ; of reforming the administrative system there, and eradicating the manifold abuses which have been engendered by the negligence and corruption of former times, and so lamentably fostered by civil dissensions. I cannot but regret being obliged to renounce the still more glorious hope of employing unusual legislative powers in the endowment of that province with those free municipal institutions which are the only sure basis of local improvement and representative liberty, of establishing a system of general education, of revising the defective laws which regulate real property and commerce, and of introducing a pure and competent administration of justice. Above all, I grieve to be thus forced to abandon the realization of such large and solid schemes of colonization and internal improvement as would connect the distant portions of these extensive colonies, and lay open the unwrought treasures of

the wilderness to the wants of British industry, and the energy of British enterprise."

He hoped he would carry into the imperial parliament a knowledge derived from personal inspection and experience of those interests, upon which some persons there are too apt to legislate in ignorance and indifference.

I have felt it a duty to give at length this valedictory of lord Durham to Canada. It is the justification of his policy, and may be said to be an appeal to posterity for the vindication of his good fame. British writers have never done Durham justice. To use his own words, they have assailed his character "in ignorance and indifference." I do not know any Canadian writer whose opinion has the least weight who has failed to recognise all that the province owes to Durham's judgment, penetration and courage. No fair mind can deny his right to justify himself against the consequences of the failure of the ministry to sustain him in England, and their abandonment of him to the vindictive personal feeling of lord Brougham. It is a passage of British history not to be read with pleasure.

In the house of commons lord Durham was sustained by the law officers of the crown, the attorney-general, Campbell, and the solicitor-general, Rolph, by sir George Grey and lord John Russell. When the subject was finally brought to the notice of the house of commons, it is plain that lord Durham could have counted upon the support of the majority of the house, and have received full vindication of his conduct, had he been justly dealt with in the house of lords. But the unfortunate acquiescence of lord Melbourne with lord Brougham's malevolent construction of the ordinance made such an appeal to the house a matter of impossibility.\*

The disallowance of the ordinance worked its effect in Canada by creating the belief that the power of government was so weakened, that it would not be dangerous to engage

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\* At the end of this chapter I append a brief account of the proceedings of the house of commons.

in a second attempt at insurrection. The first open rebellion had ended in a general amnesty, and in the exceptional cases where a mild punishment had been inflicted, it was declared to be illegal. The feeling shewed itself in the court of queen's bench. An application was made for a writ of habeas corpus in the case of one Fermin Moreau, imprisoned under the ordinance of the special council, passed simultaneously with the disallowed ordinance. Mr. justice Bedard considered the committal illegal, as in his opinion the imperial act 17, George IV., chap. 5, formed a part of the laws of the province, and the legislative power of the special council was restricted to non-interference with any imperial act. Mr. Bedard was overruled by the other judges, but the position taken by him caused anxiety.

A few days before his departure, lord Durham appointed sir James Stuart chief-justice of the province, in the place of Sewell, who retired with a pension of £1,000 a year. Chief-justice Reid, of Montreal, also, expressed the desire to retire. The appointment was offered to attorney-general Ogden, but he declined its acceptance, assigning as his reason the inadequacy of the salary, compared with the emoluments he was receiving. The solicitor-general, O'Sullivan, was consequently nominated, and Mr. Andrew Stuart appointed solicitor-general.

One of the last letters of lord Durham, written within a few hours of his departure, was his notification to lord Glenelg on a subject "affecting the comfort and contentment of the soldiers serving in North America," the stoppage of a portion of their pay for the purpose of providing extra necessaries and clothing required for the severe climate. It seems difficult of belief that the war office should have descended to the wrong and meanness of making this exaction. That it was shortly afterwards abandoned must be attributed to the protest of lord Durham.

Two or three days before his departure the Guards gave him a dinner. The proceeding occasioned remark in London, from the fact that any mark of respect he received was



construed into sympathy with his political conduct. The event, however, was simply a social mark of respect: a banquet given on the departure of a governor-general. It is not, however, usual to pay marks of respect to men for whom we feel indifference, and doubtless there was an undercurrent of recognition of the wisdom shewn in Durham's career. At the dinner, he proposed the health of the duke of Wellington; and it must be recollected that lord Durham had served two years in the 10th Hussars, and whatever his feelings with regard to the duke's political career, he could not fail to recognise his success as a great commander.

Lord Durham sailed from Quebec on the frigate the "Inconstant," on the 1st of November, and certainly did not take his departure as if under the ban of the government at home. Guards of honour were stationed at the house of assembly, which he was leaving, and at the wharf, where he was to embark. Troops were formed on the whole length of the streets. At two o'clock lord Durham, accompanied by sir John Colborne, attended by the military staff and the departmental officials, with a large concourse of citizens, proceeded on his last journey on Canadian soil. The procession was headed by the Saint George's society, with the band of the Quebec artillery, and the Caledonia society with its pipers. The windows of Mountain street were crowded with ladies, and the streets packed with spectators who desired to take their last farewell of the able statesman who had been so unworthily treated for the sole reason that he had performed a painful duty with humanity and mercy at the sacrifice of an insignificant technicality. Moreover, it was powerfully felt that his departure from the country at that crisis was a national loss. There was the common sentiment that he had been "sacrificed to the machinations of his foes, and the desertion of false and envious friends."

The Saint George's society embarked on the "Canada," which was to tow the frigate to Saint Patrick's hole. She steamed round the ship until she was ready to sail, playing the national airs of Canada and those strains of home we

never forget. The "Canada" was joined by the "Lumber-Merchant" steamer from Point Lévis, with a large number on board, and she aided in the work of bringing the "Inconstant" to her night's anchorage. A banquet was given, in which the customary loyal toasts were drunk, among which the health of the departing governor-general and his family was enthusiastically drunk.

The hour came when farewell was to be said. The steamer again sailed round the frigate to pay the last salute. While it was so engaged, lieutenant Balfour, of the "Inconstant," was sent in a boat to the steamer to express the deep thanks of his excellency for the genuine marks of respect and esteem he had received. As the steamers returned homewards, the last strains heard were "Should auld acquaintance be forgot."

A class of writers has continually represented that lord Durham threw up his government from pique, when his ordinance was disallowed. The facts I have narrated distinctly prove the contrary. He had sent in his resignation, and had assigned the reasons for taking the course on the disallowance of his ordinances, in the language of a statesman, and had remained in Canada to complete all that he felt necessary to undertake, in order to avoid leaving in an unsatisfactory and incomplete condition the duty he was present to fulfil; a course of proceeding fully known and accepted by the colonial secretary, and so recognised in his correspondence. One letter he wrote at sea on the 10th of November, informing the colonial secretary that on the morning of his departure sheriff McDonnell had hurriedly arrived from Kingston, to communicate the "alarming intelligence" that there was a feeling of great unwillingness on the part of the militia and volunteers of Upper Canada to tender their active service, from the general belief of the indifference of the British government to their fate. They also deemed it useless to make further effort to maintain the connection with the mother country, and nothing but a declaration from lord Durham that the intentions of the British government were misunderstood could induce them to enrol themselves

for the defence of the province. The assurance required was, of course, given by lord Durham. In reporting the fact, he added that it was likewise generally the feeling entertained by the British population in Lower Canada.

Thus his last words uttered on Canadian waters were to aid in perpetuating our devotion to the great British empire.

## HOUSE OF COMMONS.

The debate on the bill sent up from the lords was carried on with much animation. The attorney-general, sir John Campbell, said :

“ The Earl of Durham had most successfully proceeded in pacifying the dissensions of Lower Canada. His measures were received with satisfaction by both parties in that country. In that country there was no complaint of this ordinance in any quarter, and his firm belief was, that if no objection had been made to it on this side of the water, all would have gone on smoothly. The object of the ordinance was clearly to prevent the re-entrance of the persons accused of taking part in the Rebellion into Lower Canada, without the permission of the Governor until the pacification of the province had taken place. These individuals would not have thought of entering the province without the permission of the Governor, who might have granted that permission to particular individuals on particular conditions, without any complaint being made by any party ; and his belief was, that in a short time the Earl of Durham, who had patriotically undertaken this arduous mission, would have returned to this country covered with complete success. He hoped that that nobleman would still persevere in the glorious task in which he was engaged, and that he would set at defiance all those who were his detractors and enemies. But it was impossible to disguise, that there was great danger that his authority might be shaken by these attempts made to attack the policy which he had pursued. With regard to the bill before the house, he regretted exceedingly that it should ever have been introduced. There existed no necessity for it, for no action ever would have been brought, nor prosecution ever instituted or thought of by the parties named in the Ordinance, if it had not been for the ingenuity of certain lawyers in this country, who had suggested the illegality of that Ordinance. It had been stated by the honourable member for Westminster, and by the honourable member for Lambeth, that the Earl of Durham did not want this indemnity. He agreed with those honourable members that it never would have been required, and that the introduction of such a measure was both officious and insidious. But as it had been introduced and the subject had been discussed, and the question agitated, and as it did appear to him on just consideration that that part of the Ordinance which was to be executed beyond the territory of Lower Canada was not justified by law, he had no hesitation in voting for the bill. A bill of indemnity in this case was not at all subject to the objections which had been made against it by the honourable member for Lambeth, or by a noble and learned lord elsewhere, because ‘ *volenti non fit injuria*.’ And all those who could have brought actions against persons acting under the authority of this Ordinance had expressed their guilt. ‘ Oh, but,’ said the honourable member for Westminster, ‘ they did not confess that they were guilty of high treason ; they only confessed that they were found in arms against the queen’s government, and as the queen’s government was not legal, that act was not high treason.’ He was sorry that in a house of Parliament such doctrine should be laid down. When it was confessed by these persons that they had openly opposed by force of arms the authority of the state, and when they levied war

against the queen within her realms, was that, or was it not high treason? These persons then could have had no cause of complaint at the issuing of the Ordinance, and if they had instituted a prosecution they would not have been able to have obtained more than one shilling damages. The honourable and learned member admitted that the Governor and his Council had exceeded their authority in that part of the Ordinance which appointed Bermuda as the place for the prisoners. He referred to the acts of Upper Canada having the same object in view with the Ordinance of Lower Canada, and said that these acts could not be distinguished from the Ordinance, the legality of which was not disputed. He professed himself ready to take his share of the responsibility which might be incurred by Lord Durham on the subject of this act, believing that he possessed the power which he employed, and that he had exercised it wisely and discreetly; and further, the noble lord had been fully justified in the departing from the criminal law as it existed in Canada before he went there, and in making it vary from the criminal law in England. He lamented the necessity which existed for a resort to unconstitutional measures in Canada, and trusted the time was not far distant when peace and tranquillity would be restored and the people would return to obedience to the law as it formerly stood."

"Sir Edward Sugden contended that the Ordinance was illegal and was surprised that the attorney-general, after supporting it, should consent to its being rescinded, a course in which he saw many difficulties."

"Sir G. Grey saw none of those difficulties which the learned knight discovered. If the Ordinance and proclamation were annulled, the parties affected would be remitted to the situation in which they formerly stood, and he conceived there would be no difficulty in trying these parties after the unqualified admission of guilt they had made. But the Ordinance would not be maintained and must be got rid of."

"The Solicitor-General was ready to take his full share of the responsibility with his honourable and learned friend. He cited a precedent, the act prohibiting the Pretender to enter the British Dominions, and it might be equally necessary for the public peace that Mr. Papineau should be excluded from Canada."

"Lord John Russell said on reflection he had come to the decision that the safer plan would be to pass the bill as it stood, without adding a clause with respect to the future operations of the act which had already passed; and in that opinion he was very much confirmed by the diversity of opinion which he had observed among honourable gentlemen of great legal authority on the other side of the house.

"Lord John Russell in course of the debates warmly sustained Lord Durham, expressing his hope that he would still consider himself bound to continue his service to his country, in spite of the attacks upon him and of the obloquy attempted to be thrown upon his conduct."



## CHAPTER VI.

Sir John Colborne assumed the administration of the government on the 1st of November, 1838. On the following January 16th he became the governor-general. The first two months of his administration were sufficiently eventful, as the departure of lord Durham was the signal for the second outbreak, which began 48 hours after his embarkation on the "Inconstant." It has been made a reproach by some writers against lord Durham that, without truth, he claimed to have foretold the second insurrection. Those who have made this charge cannot have taken the trouble to consult the parliamentary papers, for the fact is clearly established by the despatch of sir John Colborne announcing the breaking out of the insurrection.\*

The movement commenced on the 3rd in the counties on the Richelieu extending west to Beauharnois. Large bodies of the disaffected *habitants* collected at Saint Ours, Saint Charles, Saint Michel, l'Acadie, Chateauguay and Beauharnois, with the expectation of being joined by numerous United States sympathisers, who would supply them with arms, and take part in the pre-arranged organisation. The 4th fell on a Sunday and the rebellion broke out by an attack on the Indians of Caughnawaga when at church. Circumstances were not favourable to the insurgents. A squaw in search of her cow in the bush near the village came upon a body of armed men, who seemed to her to be lying in ambush. She returned to the village and gave the alarm. The Indians at once divined that their *bourg* was

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\* Colborne to Glenelg, Montreal, the 5th of November, 1838. [Par. papers, No. 2, 1839 ; p. 246.] "The information which lord Durham has communicated to your lordship will have prepared you for the movement of the rebels, which has now taken place," &c., &c.

attacked. Seizing their muskets and tomahawks, while those unprovided with firearms took pitchforks and what implements they could find, they advanced with a war-whoop against the body that was threatening them. They met the insurgents as they were approaching the village. The struggle was of short duration, for not only were the invaders utterly discomfited, but 70 prisoners were taken and the following day marched into Montreal. The object of the attack was to obtain possession of the arms, ammunition, and stores known to be in Caughnawaga. The attempt so signally failed as to cause great discouragement with the insurgents, while proportionately it elated the supporters of the government.

The previous Saturday evening an attack had been made on the steamer "Henry Brougham," which passed between Lachine and the Cascades, on the Upper Canada route. A stage took the passengers from Montreal to Lachine. This steamboat performed the journey on the lake Saint Louis; a second stage travelled to the Coteau, at the foot of lake Saint Francis. The boat, therefore, had a certain regularity of movement, and its arrival at any particular wharf was at an appointed hour. The boat on her return trip to Lachine had put in to Beauharnois, when she was taken possession of by about 400 insurgents. They made prisoners of the passengers and crew, and destroyed the machinery to the extent of preventing the vessel continuing her trip. Their next proceeding was to surround the manor house, and to seize the son of the owner of the seignory, Mr. Ellice, the agent Brown, with two persons in the house, Ross and Norval. They obtained, likewise, some 16 stand of arms. Mrs. Ellice and her sister, Miss Balfour, took refuge in the cellar. They were not, however, ill-treated when discovered.

On this night, the rising took place throughout the district of Montreal south of the Saint Lawrence. In all directions the families of British and Irish origin, that were isolated in the midst of the French Canadian population, were driven from their homes, and, as they were able, hastened to take

refuge in Montreal. A British inhabitant named Walker, living at La Tortue, about seven miles from Laprairie, was attacked. The husband was murdered, and his family with difficulty escaped with others living in the neighbourhood to Laprairie and reached the city the following day. The rails between Saint John's and Laprairie, for some distance, were torn up and removed, to make any passage over the line impossible. The mail between Montreal and Quebec was stopped at Bout de l'île, but after some delay was allowed to proceed.

The insurrection during the summer had been organised with care and secrecy by the refugees on the Vermont and New York frontier; the principal persons engaged being Dr. Robert Nelson, Dr. Côté, and Mr. Mailhot. Emissaries had been constantly moving among the parishes, promising arms, and supplies, and armed assistance by United States sympathisers. When the *habitants* from both banks of the Richelieu gathered at Saint Charles, and Saint Ours, no such aid was at the rendezvous to meet them. There were neither arms, nor supplies, nor leaders, so the greater number returned to their homes. Several, however, persevered in the movement, and, with packs on their backs found their way to Napierville, a village of some importance on the direct road to the frontier. It was four miles distant from the Richelieu, and fifteen from the province line, being eight miles from Lacolle, the next village, through which the road passed. Napierville was the centre of the French Canadian population of the district, the *chef lieu* of the county. The present court house and jail had been built previously to this date. Accessibility from the States had pointed the place out to Robert Nelson, and with Côté and Gagnon he had proceeded there, making it his headquarters. By Tuesday, the 6th, 4,000 of the inhabitants had assembled at this spot, utterly unprovided with means to enter upon the contest. They had been kept at fever heat during the whole summer by emissaries from across the lines, and had been taught to believe that success was certain. Those who had guns

brought them. Many had only pitchforks, and rudely made pikes. What they principally relied upon was the presence of a strong force of armed sympathisers. Among those present was a Swiss, or a Frenchman, named Hindenlang, who suffered death for his participation in the rebellion, with another foreign officer who took military command. When the order was given to proceed to the province line to meet the sympathisers who had engaged to join them, the latter directed the movement.

Hindenlang, when a prisoner, published a narrative in the hope of saving his life. He informs us that he was induced to join the movement with another military officer, and on proceeding to enter upon service crossed the lake at Saint Alban's. On the New York side he met Dr. Nelson and another person. There was lying at the wharf a boat, on which an United States sympathiser, one colonel Burton, had placed 250 muskets and a field-gun. The passengers were Dr. Nelson, Hindenlang, the French officer whose name is not given, a guide, and a boatman. They descended with the current to Vitman's wharf across the line in Canada. No one received them, and it was an hour before the arms could be landed.

The three passed over the 15 miles to Napierville. On Sunday, the 4th, Nelson was declared president of the Canadian republic, and messages were despatched in all directions to bring on men. The French officer, who seems to have been one Touvrey, was sent to feel his way and scour the neighbourhood, but he was not again seen by Hindenlang. Among the exactions from the loyal population were a bed and pillow taken from an invalid. A lady appealed to Hindenlang to obtain their return, a request with which he thought it his duty to comply. As a matter of duty he reported the circumstance to Dr. Côté. On receiving the intelligence Côté took Hindenlang aside and told him he had no order to receive, for Hindenlang had been himself appointed brigadier. The newly-appointed general tells us, that he opened his eyes, for he had joined as a private, and could he

have extricated himself from his position he would have done so. As the matter stood, it became his duty as the men came in, to divide them into companies of 50, and to introduce some discipline. All this time the exactions were continued from all who lived in the parish, and were regarded as "tories." The priest of the village did not escape, for Côté forced from him what money he possessed, both what belonged to the parish and what he personally owned. Orders were now given to proceed to Rouse's point. They were told that they would be there joined by their United States friends, and arms would be provided. The first night they reached Saint Valentin, a parish on the Richelieu, three leagues distant. The French officer was in command, but Dr. Côté also accompanied them. There they bivouacked, being in number some 500 or 600. The next morning, the 6th, they started for the province line, on the road leading direct to Rouse's point. This route had been followed to avoid passing by Lacolle, as captain Marsh's company of volunteers was quartered there. A picket of this corps had been detached to the south side of the bridge crossing the Lacolle river. As the insurgents attempted to pass the bridge, they were received by a fire from the picket. The officer in command of the insurgents extended his men along the north bank, and by the force of their fire forced the picket to give way. The men passed through the woods to Lacolle, two miles distant, giving warning of the movement. In Marsh's official report, he described some of the insurgents as mounted, four of whom were killed or wounded, as they were seen to fall from their horses. On this intelligence, Marsh sent to major Schriver, of Hemmingford, suggesting that he should advance with all his force to dislodge the insurgents from their position on the lines.

The insurgents, in the meantime, crossed the bridge and reached the frontier, where they expected to be met by a strong body of men. None were present. For safety they crossed the line and slept on the United States side. The morning of the 7th they re-crossed to take possession of the arms and the field-piece that had been previously landed.



Major Schriver had acted upon the demand of Marsh, and the junction had been made about 10 o'clock. A plan of action was determined, and it was resolved to attack without delay. Fisher's company was sent to the rear to cut off all retreat. Weldon's company was to attack the left, Marsh's Lacolle company the right, and Schriver, with the Hemmingford battalion, was to carry the centre. There were no regulars present.

The engagement was commenced by the Lacolle infantry as the troops came on the ground. The charge was then made by Schriver's battalion, when the whole force became engaged. In 20 to 25 minutes the insurgents were driven from the field in every direction, leaving on the ground 11 dead, and several prisoners were taken. The fugitives crossed the lines into the United States, leaving behind a 6-pdr. gun, a large number of United States muskets, one keg of powder, a quantity of ball cartridge and a great many pikes. Two of the provincial troops were killed and one severely wounded.

Major Schriver, considering that the Hemmingford frontier required protection, left immediately after the action. Marsh, in making his report, pointed out that the volunteers had been under arms a week, on duty day and night, and he feared that "they could not stand out much longer unless the military came to their assistance."

This affair took place on the 7th. On the 9th occurred the attack in the Methodist chapel at Odelltown. This building is still standing on the Lacolle highway, entirely alone, for there is no village in the neighbourhood. A succession of farms in a high state of cultivation extends at this date along both sides of the road to the frontier. While the party under Côté had proceeded to Rouse's point, Nelson had remained at Napierville. He could scarcely have failed to hear of the defeat of the 7th on the evening of that day, the distance from the province line being but 15 miles. It was indispensable that he should obtain some success which he could magnify, as men engaged in these desperate undertakings

never fail to do. On the 8th he left Napierville, by some accounts with 1,200 men. According to the information obtained by colonel Taylor, doubtless from Hindenlang, who was made a prisoner after the action, 911 men were engaged in the attack. Colonel Taylor, the inspecting field-officer of the district, was stationed at Caldwell manor, on the eastern bank of the Richelieu. He had arrived only at daybreak, having left his quarters on hearing of the movement at Napierville. He had crossed the Richelieu and had taken command. On finding the disparity of numbers, he had written to captain Grattan, at Ile-aux-noix, asking him to send some of the garrison to his aid, if he could do so consistently with the safety of the fort. On his part he assembled all the companies he could collect, and prepared to meet the emergency.

About half-past ten Taylor received information from his outlying picket that the insurgents were advancing in force against him. He had with him but 200 men, and was short of ammunition. He accordingly decided to occupy the Methodist church, which he considered to be defensible. The insurgents commenced the attack with a heavy fire of musketry. They were, however, held back for half an hour, the road by which they advanced being swept by the 6-pdr. gun that had been taken two days previously. The action lasted two hours and a half. The insurgents had taken possession of two barns, from which they kept up a warm fire. Accordingly, in a sally, these buildings were both burned, and remained in flames while the action continued. The resistance was carried on with such determination that the insurgents finally retreated, leaving 50 dead on the field, and carrying off as many wounded. The defenders lost: killed, captain McAllister and 5 men; with lieutenant Odell and 8 men wounded, being one man in every 13 present.

At the close of the action, captain Grattan, with a detachment of the 73rd, and the assistant surgeon, Dr. Ryan, arrived from Ile-aux-noix. Some companies from Caldwell's manor also came on the ground at this time to assist in the

discomfiture of the insurgents, for the firing had been heard on the other side of the Richelieu. Captain Vaughan, with 100 of the militia, hastened to render the aid he could offer. The appearance of this reinforcement aided in determining the retreat, although the insurgents had been hopelessly beaten back before its arrival. Major Schriver, with the Hemmingford battalion, also arrived. Several officers of the regiment whose companies were not present had joined as volunteers ; among whom was captain McAllister, who was killed. Colonel Taylor particularly brought to the notice of the governor-general sergeant Beattie, who had shewn himself a gallant, good soldier under very trying circumstances. He had served the gun with determined spirit.

The assembly of the insurgents was reported to Montreal with much exaggeration on the 5th of November. The attack on Caughnawaga was known on Monday, the 4th, by the Indians bringing in their prisoners. Any attempt at insurrection seemed to be so utterly futile, unless sustained by a large body of sympathisers from Vermont and New York, that it appeared impossible that the attack had been made without their assistance : a belief countenanced by the proximity of Napierville to the United States. It was known, however, that the *habitants* who had assembled at Saint Ours, Saint Charles, and Saint Michel on the 3rd, finding themselves without leaders and without arms, had during the two following days generally returned to their homes. Napierville accordingly came to be regarded as the central point of the revolt. It had been reported that 4,000 insurgents had been assembled there, and there is ground for the belief that at one period the number was not an exaggeration. The proclamation of Dr. Robert Nelson of the declaration of independence, calling for fraternity and fellowship, with the threat of retaliation upon his opponents, and expressing the determination not to lay down arms until independence had been obtained, had been duly published and had reached the city.\*

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\* These documents have already been described. Ante, p. 112. They are undated.

Sir John Colborne was at Sorel on the 3rd, where he heard of the gathering on the Richelieu. He immediately left for Montreal, where he learned the seizure of the "Henry Brougham" and the attempt on Caughnawaga. He had constantly received intelligence of the organised secret societies, and had formed the conviction that, unless strong measures of precaution were taken revolt would again break out throughout the province. On his arrival he assembled the special council, and issued a proclamation declaring martial law. Six ordinances were issued; ordering the banks to suspend specie payments; for the seizure for a limited time of gunpowder and arms; for the suppression of the rebellion; the apprehension of persons charged with or suspected of treason; granting the power of declaring and defining when the rebellion ceased; and regulating the appointment of justices of the peace and stipendiary magistrates.

On the 7th and 8th, the column left Montreal under the command of sir James Macdonell; all the detachments to be concentrated at Saint John's. This force consisted of some squadrons of the King's Dragoon Guards and 7th Hussars, the Grenadier Guards, with the 15th, 24th, 17th and 73rd regiments, and two batteries of artillery. On the 9th the force advanced in two columns to Saint Valentin and to Napierville. The troops entered that village to find the place deserted by all who had shewn sympathy with the insurgents. Men are still living who relate the rapid exodus in which some of them participated, when the approach of the troops within a league or so of the place was known. There was likewise a loyal population in the village, of whom many had been cast into the jail. It was the first duty of the officer in command to release these loyal prisoners. The building still exists, and the souvenir of the event is still preserved. So far as Napierville was concerned, there was not an insurgent within miles of its limits. The insurrection had collapsed in six days.

Hearing that some insurgents were gathered at two places to the west of Napierville, Saint Edouard, and Saint Remi, on

the 11th, sir James Macdonell proceeded thither. He was able to report that the gathering was completely dispersed. He burned the houses of two insurgents, described as being "notorious rebels," at La Grande Frénière, and the house of one Bell, a blacksmith, who had forged the pikes. With these parties he arrested several leaders of minor note. He also received intelligence, that the insurgents from Chateauguay, who had with them 12 of the prisoners they had taken at that village, had dispersed within two miles from Saint Edouard, leaving their prisoners at liberty. The parties released had immediately left for Laprairie, among them were Mr. Ellice, colonel Clive and Mr. Brown.

Major-general Clitherow returned to Saint John's, and, crossing the bridge, marched to Henryville, to the south, to check a movement threatened from Alburg in Vermont. There was, however, no trouble in this quarter. Lieutenant-colonel Robert Jones, with the Missisquoi militia, had been indefatigable in maintaining order in the district, for which service he received the thanks of the government. Owing to the precautions taken no movement followed from Alburg, especially after the defeat at Odelltown.

On the Richelieu the 66th regiment, with a demi-battery of artillery, had been moved from Sorel up the river to Saint Hilaire, to be ready to suppress any movement from Saint Césaire and Saint Marie de Monnoir to the south, and any attempt that might be made from Contrecoeur and Verchères to the east.

An insurgent camp had been formed near Boucherville mountain under the direction of Mailhot. The insurgents having taken possession of the Manor House and mills of Mr. Brunlaw, a detachment of the 66th had been directed against them. On hearing of the approach of the detachment, the insurgents, 200 in number, abandoned their position, and dispersed to their respective homes. Colonel Cathcart, of the King's Dragoon Guards, in command at Chambly, reported this fact as known to him on the 15th of November, and that Mailhot had crossed the river at Point Olivier. He



ordered a party of the 15th, accompanied by some loyal persons acquainted with the inhabitants, to march in search of arms, and possibly arrest Mailhot. Some arms and prisoners were taken. Colonel Cathcart had learned from M. l'abbé Mignault, the *cure* of Chambly, that three guns and a considerable quantity of arms and ammunition was in a mill near the lake in Boucherville mountain. M. Mignault had been extremely active in his exertions in influencing his parishioners against taking part in the movement, and in aiding to arrest the agitators who were endeavouring to coerce those who were peaceably disposed. He had sent a young ecclesiastic of the name of Le Zeore, to recommend the voluntary surrender of their arms to him for delivery to colonel Cathcart. As they did not arrive, Cathcart started with a picket of 20 mounted men. On reaching the wood he met major Johnson, of the 66th, with a strong detachment and two guns, proceeding to make the seizure. Sending the cavalry picket to barracks, Cathcart joined Johnson at the mill, to find him in possession of three guns, 10 or 12 casks of powder, 30 muskets, many pikes, much ammunition made up in artillery cartridges, with bags containing musket balls attached to each cartridge. Major Johnston returned to Belœil with his capture and Cathcart to his command at Chambly.

During the operations at Napierville an expedition was directed against Beauharnois, where a large body of insurgents had assembled. The detachment was under the command of colonel Carmichael, particular service, and consisted of 4 officers, 4 sergeants, and 121 rank and file of the 71st. Colonel Phillpotts, of the royal engineers, was also present, with 22 officers and men. There were, also, two battalions of Glengarry men, 1,000 strong. The detachment on the 10th of November crossed from the river Beaudette, on the north shore of Hungry bay. After a march of 23 miles, the troops attacked Beauharnois. They experienced some slight resistance, but finally drove out the insurgents. The attacking party lost one man killed, and three wounded, one of whom died the following day. The insurgents made

for the Chateauguay river, which they endeavoured to follow to the frontier. They were pursued by the volunteers, who brought in many prisoners. Phillpotts assembled a court of inquiry to determine who of the number should, as ring-leaders, be sent to Montreal and who should be allowed to return to their homes. A large portion of the village of Beauharnois was burnt. Phillpotts reported that the troops had done their part to endeavour to extinguish the flames, but they had no means of doing so ; that the houses of many loyalists were also burned. The troops, although wearied out by their march of 23 miles, and having been engaged for some hours, remained on duty until 3 o'clock of the Sunday. As they were greatly fatigued, they remained at Beauharnois for further orders.

I have narrated that several of the parties seized at Beauharnois had been held as prisoners until the arrival of sir James Macdonell at Saint Edouard. They had in the first instance been taken to Chateauguay, and detained there some days, when they were removed, with the design of being carried to Napierville. The design appears to have been to detain these persons as hostages, to be available for the threat of reprisals, in case of the capture of any leaders of the insurgents. The utter collapse of the insurrection led to their being abandoned rather than released. The remaining prisoners at Beauharnois, taken from the steamer "Henry Brougham," 17 in number, had been protected and cared for by the *curé*, M. l'abbé Quintel. Two were ladies. On their departure they presented an address expressing their gratitude for the service rendered by him, and for the hospitable treatment they had received. This statement took the material form of a request on their part, that M. Quintel would accept a piece of plate as a token of their good wishes for his happiness, and their kindly recollection of his service.

The insurrection was now terminated. The resistance at Beauharnois on Saturday, the 10th, was the last sign of revolt. It had lasted precisely a week from Saturday, the

4th, when Robert Nelson entered Napierville to declare himself president of the republic of Canada, until the night of the 10th, when the poor dupes, assembled at Beauharnois, were endeavouring to effect a dreary and laborious retreat to the frontier by the Chateauguay river. Sir John Colborne landed from the "Princess Victoria," in which he had crossed from Laprairie on the 14th, to be received in Montreal with an enthusiastic welcome. He was able on the 17th to report that quiet had been re-established, but that anxiety had not passed away. The *habitants* generally had returned to their homes, and the loyal could now come forward in support of the magistrates. Arms and ammunition had been deposited with the authorities throughout the country. Sir James Macdonell, with four regiments, was directed to march along the south shore of the Saint Lawrence through the seigniories implicated in the revolt, to pass the Richelieu at Saint Antoine, and march to Saint Hyacinthe, and to Saint Césaire on the Yamaska. A force was sent to Terrebonne to prevent any outbreak in that quarter. A movement had been looked for in the eastern townships; but the determined attitude of the loyalists of Stanstead and Sherbrooke prevented the invasion designed against the township of Barnston being effected. There were known sympathisers ready to support the attempt, 14 of whom were arrested.

It will have been seen that the county of the Two Mountains had taken no part in the insurrection.

While the troops were at Napierville, the cavalry and infantry visited many of the neighbouring parishes. In many of the domiciliary visits the men were found to be absent, an inference that they had joined the ranks of the insurgents, or, from fear of the consequence of their conduct, had left their homes. There was much destruction of property, principally in the county of Laprairie, owing to the houses of men who had been engaged in the rebellion having been burned. Strict orders had been given by Colborne for the avoidance of this retaliation, or, that it should be resorted to,

only in extreme cases, as an example. There was great exasperation on the part of many of the volunteers, from the treatment that members of their families, and their friends who had fallen into the hands of the insurgents, had received; joined to the strong feeling experienced against the insurrection itself. Many, likewise, had personally experienced wrong. The remembrance, moreover, that the amnesty of 1837 had been general and unconditional awoke strong indignation that those who had been included in its provisions should have shewn a disregard of the clemency of the government, and have entered upon the second rebellion with acts of violence and outrage. The consequence of this exasperation was that the volunteers who came across the property of a man notoriously engaged as an insurgent, felt that it was a righteous act of retribution to destroy it. This sentiment, however greatly it may be regretted, was the cause of much destruction of property, in the burning of farm houses and barns. In some cases the property of persons merely suspected was wantonly destroyed. The fact, however painful to chronicle, can only be accepted as one of the inseparable incidents that occur when the bonds of society have been torn asunder by violence and outrage. The minds of men in the excitement of the hour cannot be expected to define accurately what is, and what is not justifiable. History in these cases furnishes perpetual examples of these excesses, committed under a very different state of feeling from that entertained by the writer, who, unaffected by the passions of the perpetrators, expresses in perfect calmness disapproval of them, and sorrow that they should have happened.

The month of November closed. The *habitants* had returned to their farms, and, except for the undercurrent of strong feeling that remained, and the fact that Montreal and Quebec were garrisoned with the volunteer regiments, there was little on the surface to betoken the late stirring events. Colborne wrote that no fewer than 13,000 *habitants* had assembled between the 3rd and 8th of November, in expectation of being supplied with arms from the United

States.\* The very basis of the rebellion was founded on the assistance to be rendered by the sympathisers on the frontier of Vermont and New York. This countenance of the insurrection may be traced to compound influences. The refugees were looked upon as martyrs in the cause of liberty. There was no knowledge of the true cause of the rebellion of 1837, and the active agents of sedition found willing listeners to declamation against British tyranny and Canadian wrongs. One of the main causes of the feeling shewn was the appeal to popular passion in the matter of the north-eastern boundary, and the repeated assertions by certain newspapers of the desire of Great Britain to appropriate territory of the state of Maine, unquestionably determined by the treaty of 1783 as belonging to the United States.

It may safely be asserted that to a great degree, the insurrection of 1837 contributed to the settlement of the wrongfully established north-eastern boundary between New Brunswick and Maine. During 1835, 1836, and 1837 matters had remained *in statu quo*. New Brunswick was in possession of the disputed territory, and no indication was given on the part of Great Britain of any abandonment of it. As the troubles in Canada became a matter of notoriety in the United States, in 1837 governor Dunlop, of Maine, brought the subject before the legislature of Maine; and that he did so may be attributed to the disordered condition of Canada. The message was characterised by much passionate representation that the State of Maine should insist on being placed in possession by the federal government of the disputed district, and strongly worded resolutions to that effect were passed in the legislature.

The successor to Dunlop in 1838 was governor Kent, who sustained the controversy with passionate vigour.

In 1837 Ebenezer S. Greelay, an official of the State of Maine, had entered the district of Madawaska, and commenced a census of the people. He was arrested by the

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\* [Sir J. Colborne to lord Glenelg, 1st of December, 1838. Par. papers, 1839, 2, p, 275.]



authorities of New Brunswick. Urged by the State of Maine, the federal authorities instructed their envoy in London to demand his release, and to claim indemnity for his arrest. New Brunswick, on the other hand, laid its complaints of the intrusion into their territory before lord Palmerston, with a request that he would forward them to Washington. Palmerston failed to comply with the United States demands, and Greelay remained in prison. One of the consequences of the rebellion of 1837 was the release of Greelay, for there was a strong desire to avoid complications with the United States, especially after the threat of Mr. Papineau that their aid would be asked if justice were not rendered. This incident, with the embarrassments of the British government, awoke strong feeling with regard to the boundary, and led to a demand for a settlement of the dispute.

On March 1st, 1838, Mr. Forsyth, of Georgia, had become secretary of state. He addressed a lengthy communication to governor Kent, enclosing copies of a long correspondence between himself and the British minister, Mr. Fox, and requested the governor of Maine to take the sense of the state as to opening a negotiation for a conventional line, conceding that such a settlement could not be attained but by consent of the state. The proposition was rejected, Maine declaring that it would insist on the line established by the treaty of 1783. It may safely be said that no such tone would have been taken but for the troubles in Canada, and the weakness of lord Melbourne in accepting, uncontradicted, the angry denunciation of lord Brougham and the tory lords, who cheered him in his attack on his personal enemy, lord Durham. The legislature of Maine voted \$800,000, to be used for defence of the State, and general Scott was sent by the federal government to the frontier to effect some agreement between New Brunswick and Maine for the temporary possession of the disputed territory. It was during the discussion of this question that the legislature of Nova Scotia voted \$100,000 to assist New Brunswick in the defence of her boundary, a vote which met with the unusual proceeding of

being received by deafening cheers from the crowded galleries.

On the frontier the Canadian refugees exerted themselves to awaken feeling inimical to the province. Their sole hope of success in Lower Canada was to obtain the aid of United States volunteers who would take part in the invasion, many of them led by the sense of wrong which they had been taught to believe that the republic was suffering in the matter of this boundary. Although there was an utter failure of these expectations, the seeds of mischief were too certainly sown. Their fruition can be seen in the unjust boundary line, at variance with all right and historic evidence, which the imbecility of lord Ashburton conceded.

Such was one of the fruits of the insurrection of 1837-1838, and the unhappy abandonment of Durham by Melbourne and Glenelg.

## CHAPTER VII.

The government had now to meet its political *quart d'heure de Rabelais* in dealing with the prisoners who had been placed in jail. Colborne wrote on the 19th of December that 753 had been arrested, of whom 164 had been discharged. Many, he said, had been unjustly imprisoned. But in the confusion and the alarm of the breaking out of the rebellion on the 3rd of November, almost every individual who had been concerned in the last revolt was suspected, not without reason, to have promoted the conspiracy which had been so secretly conducted. Several arrests took place on the 4th of November.\*

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\* Among the number were Mr., afterwards sir, Hypolite Lafontaine and Mr. Denis B. Viger. Lafontaine remained in confinement until the 13th of December, when he was discharged by P. E. Leclerc, J.P., who represented the government in the examination of the depositions against prisoners, with a view to liberate those whose offences were not serious. The cause of Mr. Lafontaine's arrest, it has been said, was a letter found among Girouard's papers in 1837, after Saint Eustache, which Lafontaine had written. According to sir Francis Head [The Emigrant, p. 345] it was sent only after Papineau's flight. "*Consolerez-vous. Viger et Papineau vous donneront 20,000 Louis pour armer les Bonnets Bleus du Nord. Lafontaine.*" It is difficult to consider these lines as anything more than a *jeu d'esprit*, but they were taken seriously. In a despatch of sir John Colborne's of the 8th of May, 1839, he submitted evidence on oath, that Lafontaine had addressed a public meeting in order "to raise his countrymen against the government of the queen, to excite their discontent, to engage them to violate the laws of the country, and to excite in their favour the sympathy of, and alliance with the United States." Thus, the letter was taken literally, and he was suspected of complicity with the movements of 1838 and arrested, to be discharged at an early date after the investigation of his case. In the month of December, 679, and in January, 129 prisoners had been arrested; 7 more were added to the list by the end of March, making the total number 815. In Quebec, 18 arrests were made; in Three Rivers, 2; in the district of Saint Francis, 19, the latter all British names, evidently settlers who had crossed from the frontier and had taken part in the movement looked for from the other side. Mr. D. B. Viger, among those arrested in Montreal, was on several occasions offered his liberty if he gave security for good behaviour. This security he declined to give. He was finally specially and unconditionally released by lord Sydenham.

A difficulty under which sir John Colborne laboured was the determination of the tribunal before which the more serious crimes should be brought. The acquittal of the murderers of Chartrand had awakened the strongest indignation, that the sword of justice should be so impotent. Lord Durham had written that trial by jury existed only to defeat the ends of justice, and to provoke the righteous scorn and indignation of the community. Glenelg had answered, on the 26th of October, that "on the due execution of justice the whole relations of society depend. If men find that the murder of their relatives and friends is not visited with retribution in a court of justice, it can scarcely be expected that they will abstain from a recurrence to the personal revenge which, in reliance upon law, they had relinquished. This state of insecurity imperatively requires a remedy. It is therefore the desire of her majesty's government that an ordinance should be passed by the Special Council of Lower Canada constituting a tribunal for the trial of treason and murder."

Colborne replied in December that the creation of a court, unprecedented in the province, of the nature suggested, would at that period have been considered objectionable, and could not have prevented the escape from justice of offenders charged with crimes since the outbreak, without a retrospective jurisdiction. An ordinance was therefore passed by the special council to meet the crisis by holding courts-martial, which could be relied on to dispense impartial justice. The ordinance was dated the 8th of November and the court was convened on the 28th.\*

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\* The following constituted the court-martial:—President, major-general John Clitherow; lieutenant-colonel sir John Eustace, lt.-col. Bernard, lt.-col. Crawford, of the Grenadier Guards; lt. col. John Grierson, 15th regiment; major Arthur Biggs, 7th Hussars; major H. Townsend, 24th regiment; major John Lloyd, 73rd regiment; capt. Aug. Cox, capt. Geo. Cadogan, capt. H. Mitchell, Grenadier Guards; capt. William Smith, 15th regiment; capt. Robert Marsh, 24th regiment, capt. Edward Muller, Royal regiment, deputy judge advocate. Messrs. C. D. Day and Dominic Mondelet were retained to conduct the crown prosecutions.

Twelve prisoners were first tried. Of this number two were acquitted and ten found guilty and sentenced to death. Six of the number were recommended to mercy. Four remained for execution. Sir John Colborne felt the serious responsibility attendant upon him in the consideration of these unhappy men. No more humane personage ever lived, and the trumpery epithets applied to his memory by writers wholly ignorant of the events of the day, perfectly unscrupulous in their misrepresentations of what happened and of the character of the actors they glorify, may be dismissed with contempt. "It is scarcely necessary," he wrote, "for me to mention to your lordship how painful is the duty which devolves on me at this moment. Convinced, however, that the safety of both provinces depends on the firmness and unhesitating decision of the executive government, and persuaded that the insurgents were in a great degree encouraged in the second revolt by the recollection of past impunity and the hope of future amnesty, and receiving daily proof of the infatuation by which a large portion of the population have been drawn into a belief in the impotence of justice, I feel that severe examples have become indispensable, and it only remains for me seriously to consider how the cause of public justice can be vindicated with the least possible sacrifice of human life." Colborne left the decision of their fate to the executive council. The consequence was that Jean Louis Thibert and François Maurice Lepailleur received a commutation of their sentence. Joseph Narcisse Cardinal and Joseph Duquette\* were hanged on Friday, the 21st of December.

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\* Mr. Lighthall, of Montreal, has been good enough to give me the following memorandum relative to the execution of Duquette :

About ten years ago, while spending the summer at Old Orchard Beach, an old gentleman from Vermont entered into conversation with Mr. Lighthall concerning Montreal, where he said he had done considerable grain business in his youth, his headquarters having been at the time at Beauharnois and Chateaugay. At that date he had in his employ a young man named Duquette, some eighteen years of age, who subsequently became a clerk in the office of a notary, one Cardinal, both of whom afterwards, in 1838, were hanged at Montreal by the



The execution of these two men created a profound sensation. It was known that there was in many quarters a strong sympathy felt for them. Cardinal at the time was a member of the assembly, a notary by profession, and a general belief had been encouraged that the government dared not execute any capital sentence. The theory current was that a few months' imprisonment would be all the penalty exacted. Indeed, this feeling had much to do in influencing many who embarked in the insurrection, for they considered that there was little risk in failure, and their imagination had been excited by all the extraordinary advantages to be derived from success. A moody feeling of discontent had been encouraged at the failure of 1837, with a determination to avenge it.

Except on the theory that Canada was to be invaded by a force of 20,000 disciplined sympathisers from the United States, and arms were to be furnished to the disaffected, no attempt at an insurrection was ever marked by greater folly. Canada was garrisoned by an effective force, with a firm,

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sentence of the court-martial. He was at Troy, New York, when the news came to him that both Cardinal and Duquette had been condemned to death. The extreme youth of Duquette and his own belief in the young man's inability to have taken a serious part in any grave political movement, shocked the Vermont merchant, and he determined to start for Montreal to represent what he knew of the young man's case to the governor-general, and plead for a reprieve. Being before the days of railways he hired horses and travelled with the greatest speed possible at that season. Reaching Montreal he went directly to Government house and obtained an interview with sir John Colborne. He there told his story and the object of his mission. Sir John was deeply affected, tears fell down his cheeks and he sobbed out: "My God, you are too late, that young man was executed yesterday."

At the end of this chapter I have given the twelve names with a brief notice of those who suffered this extreme sentence. Six were hanged for murder; four for the wanton, cold blooded assassination of Walker at La Tortue; two were found guilty of the active part taken by them in the uprising in 1838, and had been convicted of the murder of Chartrand. Cardinal and Duquette had been the leaders of the attack on Caughnawaga. Decoigne, at Napierville, had shewn much harsh treatment to the loyalists. Hindenlang and Narbonne had participated in the attack at Odelltown; de Lorimier had been a leader in the seizure of the "Henry Brougham" and an active agent of sedition. He had been engaged in 1837 at Saint Eustache and had been included in the amnesty.

dauntless, and experienced soldier to direct its movements. It was known that agents were passing to and fro, awakening sedition, and in spite of the secrecy attempted, it was felt that danger was threatened. As the insurrection, however, was commenced and its feeble efforts became known, it had never the slightest chance of success. It lasted but a week.\*

More confident hopes of the mitigation of the threatened fate of the prisoners had been entertained, owing to the conduct of two judges of the Quebec bench, Panet and Bedard. On the 20th of November application had been made by Mr., afterwards Mr. justice Alywin, for a writ of habeas corpus for one Teed, a prisoner who had been arrested as having been known to be in intimate relation with the insurgents. Mr. Aylwin argued that the ordinance was illegal. The solicitor-general, Mr. Andrew Stuart, sustained its validity.

The two judges granted the writ, setting forth that the statute 14 George III., chap. 83, which had introduced the criminal law into Canada, had brought with it as a constituent part the habeas corpus, 31st Charles II. As the act 1 Vict., chap. 9, for suspending the constitution of Lower Canada restricted the council from repealing or suspending any act of the imperial parliament, the suspension of the habeas corpus was illegal. A writ was accordingly granted and Jeffery, the keeper of the jail, was ordered to produce the man. The chief-justice was absent in Montreal. Mr. justice Bowen did not attend, and for so acting was at the time subjected to much unpleasant criticism. The issue of such a writ caused the greatest surprise, especially with the advocates experienced in criminal law. With the public

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\* The Quebec *Mercury* of the 29th December, 1838, thus speaks of the state of feeling caused by the execution of the 21st: "We learn that the execution of Cardinal and Duquette has had a strong effect upon the political prisoners in the gaol of Montreal. Up to the day of their imprisonment it was mirth and gaiety amongst the prisoners, dancing, fiddling and singing, in anticipation of a triumphal return to their friends, and the confidence that no French Canadian would be subjected to death or transportation. The death of their comrades has brought them to a proper sense of their situation. They are now quiet and orderly, and behave in a way more becoming men whose lives are in jeopardy for heinous and repeated transgressions."

generally much dissatisfaction was felt, and the opinion was universal that the decisions on the application should have been deferred until the case could be brought before a full bench, including the chief-justice. Moreover, there was a belief, of by no means limited extent, that Bedard's sympathy with his former associates in the house remained in activity. He had been familiarised with the view that the claims advanced by the assembly should be sustained by force. It was the doctrine of the 92 resolutions that he had introduced, for they had suggested that, if necessary, recourse could be had to the armed sympathy of the United States.

The prisoner Teed, for safe-keeping, had been transferred to the citadel, and the governor of the jail, in reply to the writ, answered that there was no such prisoner in his charge. The judges treated this return with a high hand, having considered it evasive; they would not hear counsel on the point, and ordered the jailor into the custody of the sheriff. The writ was now served on colonel Bowes, of the Coldstream Guards, commandant of the garrison, who, hearing that it had been granted, wrote to the judges setting forth his reasons why he must refuse to give up the body of the prisoner. This letter, far from mollifying the judges, led them to issue a warrant for the apprehension of colonel Bowes for contempt; but the gates of the citadel were kept closed, and the colonel could not be reached.

The judges, however, were determined not to be impeded in carrying out their views, and caused a writ to be served upon Mr. Thomas A. Young, the police magistrate under whose warrant Teed had been apprehended. Young, not having the prisoner in charge, made default of the return, so the order was given by judge Panet that Young should be imprisoned in the common jail, until a proper return was made. Young kept out of the way until the judges were powerless to harm him. On this occasion judge Panet came to court with a prepared written judgment, which he prefaced by a lengthy harangue. He justified the judgment given by Mr. justice Bedard and himself, commenting on the

singular party spirit which had been manifested. The observations in allusion to him, by a venal press, sold to power, were of no effect. The judges had been threatened with suspension, even hanging, but they were unmoveable. He animadverted at some length on the scandalous example of insubordination to legitimate government shewn by the queen's officers.

It does not require much knowledge of law to shew the factious character of the proceedings of these judges ; or if that view be objected to, their ignorance of the law and history of the country. In 1778, Haldimand, when governor-general, had drawn attention to the necessity of establishing whether the habeas corpus act was in force or not. Livius, the chief-justice, was then in office endeavouring to embarrass the government on much the same pretension ; and, in order to give ground for his contention, had declared that the criminal law had carried with it the habeas corpus. The answer Haldimand received is not preserved, but, as he acted as if such was not the law, with the approval of the crown, it is plain he held that he was not bound by that restriction.\* The proof that such was the case is, that in 1784 on Haldimand meeting the legislative council for the last time before leaving the province, the ordinance establishing the habeas corpus was introduced and passed. Several amendments were moved to assure that its provisions were in accord with the law in England, as interpreted since the revolution of 1688. It was moved and carried that no judgment should apply to anyone who had taken religious vows. Six days later it was represented, that those affected by the clause desired that no mention should be made of them in the act, and the clause was excised. The ordinance became law at the close of the session of the 29th of April, 1784.†

This historical precedent judges Panet and Bedard thought fit to ignore, either from a factious sentiment unfriendly to the government, or from want of knowledge. The haste with which they acted, and the temper they had shewn in enforcing

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\* [Ante, VI., p. 484.]

† [Ante, VII., pp. 229, 230.]

their decision, made it incumbent on the government to interfere. Moreover, sir John Colborne was not one to tolerate an unwarrantable interference with authority in the crisis through which the country was passing, when it was legitimately exercised for the preservation of society. He brought the conduct of the judges before the executive council. The matter was dealt with without delay. An ordinance was passed on the 8th of December, suspending them from the duties of their office, and on the same day they were specially notified of the fact. The police magistrate of Quebec, Mr. Young, could now return to his duties.

These two judges were not the only examples of such endeavour to embarrass the government by the strained construction of law. Mr. justice Vallières, the resident judge of Three Rivers, issued a writ of habeas corpus for one Célestin Houde, and admitted him to bail. He likewise was suspended; and Mr. justice Rolland was ordered to Three Rivers, to assume temporarily the judicial duties of the district. He arrived there the beginning of January, 1839. One of his first duties was to refuse a similar demand made in the case of a law student, Mr. Barthe.

These proceedings put down what was called at that time the "insurrection of the bench," and stopped all active sympathy with the prisoners confined for treason. Sir John Colborne's conduct in this delicate matter was applauded by every lover of good government, and such for all time must be the verdict of history.

Mr. Bedard proceeded to England to lay his case, with that of his *confrères*, before the imperial government shortly before the union in 1841. In the placable spirit in which the British government acted, when the past was erased from memory so as not to interfere with any man's advancement, lord Sydenham reinstated the three judges in their positions on the bench, allowing them their full emoluments during the period they were suspended. Mr. Vallières even became chief-justice in Montreal in 1842.

An incident took place in November in London, which



throws light on the history of these days. Mr. Roebuck, who never omitted an opportunity of saying something to the injury of Canada, had with his usual acerbity written to the London *Spectator*, giving as his authorities for the statement Messrs. Lafontaine and Davignon, that Mr. Edward Gibbon Wakefield had been employed by lord Durham to negotiate with Mr. Papineau. As Mr. Roebuck narrated the affair: "An agent well known to be employed by lord Durham's administration, and openly in communication with his chief secretary, and who also formally reports his proceedings, this man is sent to Mr. Papineau, the denounced traitor, in order to devise plans for the re-establishment of the constitution, and the arrangement of the affairs of the province so as to content the people."

Mr. Wakefield wrote in reply, on the 22nd of November, that Mr. Roebuck had been grossly imposed upon, for the statement did not contain one word of truth. He had never been employed by lord Durham, or by any person connected with his government, to communicate with Mr. Papineau, and had never made any report to any person on the subject.

The assertion, however, was not pure invention, but it was a perversion of truth. Mr. Wakefield proceeded to give his account of what had happened. For a long time previous to the rebellion, he had felt strong sympathy with the majority of the house of assembly, and had conceived the dispute to be similar to the quarrel with the old colonists in 1776; that the majority of the colonists were struggling for popular principles and good government against an arbitrary, corrupt and oppressive faction; and that the violation of the Canadian constitution had justified rebellion. The facility with which the rising had been crushed had led him to suspect his opinion to have been erroneous. He had entered the colony with a strong feeling of good-will for those who had engaged in the outbreak and had failed, and with an anxious desire to learn the truth. He had, therefore, seized every opportunity of intercourse with the members of the *soi-disant* liberal party, and had passed hours and days with Mr. Lafon-

taine and Mr. Morin, in the absence of Mr. Papineau, the leaders of that party. Wakefield described the interviews as cordial and intimate rather than candid and frank. Every political subject was discussed: the rebellion, its cause, its failure, the chances of the impunity or the punishment of those concerned.

"In the course of these discussions," wrote Mr. Wakefield, "I became convinced that Mr. Lafontaine and his friends were bent on pursuing a course which would be most injurious to the colony, and especially to the whole race of French Canadians. They appeared to be profoundly ignorant of their position, and thoroughly devoid of judgment as leaders of their party. I told them so in the plainest terms."

Mr. Wakefield then determined to have the same unre-served communication with Mr. Papineau, in the hope that he might exert his influence to divert other leaders of his countrymen from a course which would bring upon them greater calamities than had happened. Furnished with letters he went to Saratoga, but failed to see Mr. Papineau, and left for him the letters of which he was the bearer. At Saratoga he met Mr. Davignon, with whom he conversed freely on Canadian affairs. Mr. Wakefield declared that this proceeding was entirely a personal matter on his part, and that lord Durham and everyone connected with his staff were ignorant of his being present, and that no report had ever been made of it. In the interviews in Canada, Wakefield had solemnly declared he was acting for himself alone, and had carefully given it to be understood that he would make no communication to lord Durham on any subject of their conversation.

Other statements regarding himself he emphatically contradicted. Mr. Wakefield also wrote, that he had considered it necessary to describe the sympathies and opinions with which he had visited Lower Canada. Personal inquiry on the spot, with the best opportunities of getting at the truth, had induced him to abandon these sympathies, in spite of the deep-rooted conviction and earnest feeling with which they

had been entertained. Himself, he had been blinded and misled by the course of misrepresentation which had occasioned the most erroneous views in England as to the nature of the dispute. An expression of opinion that had had a mischievous effect in deceiving the French Canadians as to the state of feeling in England with regard to their position.

We are indebted to a modern writer\* for our knowledge of Mr. Papineau's views of the outbreak of 1838. He spoke of the event as condemnable from its utter want of foresight, and the folly of the attempt. He has always been credited with the attempt to induce the United States authorities to interfere in the quarrel. If the correspondence has not been destroyed, there must be some record of the proceeding, and the truth may one day be known. In the letters of Mr. Papineau which have been preserved there is but one allusion to these events. It makes the startling statement that the interference of the United States was more probable than is generally believed. The student of history cannot accept this statement as warranted, unless distinct proof be given of it. To my mind it is an example of the exaggerated conduct traceable in every act of Papineau's life. The very contrary impression was made on colonel Grey during his mission to Washington by the command of lord Durham, and he was not a man liable to be deceived.

That there was a strong spirit of sympathy along the frontier is undeniable. The fact will be more apparent in the narrative of the rebellion in Upper Canada; but in the aggregate, the efforts were weak and disconnected, and directed by men more remarkable for the violence of their views than for the possession of ability to carry them out successfully. These attempts were exceedingly mischievous as raids and riots, but in reality they amounted to little more, and from the facility with which they were stamped out, in a broad view they were not important.

The court-martial still continued its labours and resulted in

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\* Mr. A. D. DeCelles ["Papineau. Extraits de sa correspondance intime," p. 19]. Ante, Vol. IX., pp. 444-5 n.

the conviction of 10 persons, who suffered the extreme sentence of the law. On the 18th of January, Decoigne, Robert, the two Sanguinet brothers, and Hamelin were hanged. On the 15th of February, Lorimier, Hindenlang, Narbonne, Nicolas and Daunais suffered death.\* These were the last executions; the other principal offenders were sentenced to transportation, but the majority of them were finally released.

On January the 17th, sir John Colborne received his commission, which appointed him governor-general. The troops had been reinforced by the 11th regiment, which, arriving too late in the season to ascend the Saint Lawrence, had landed at Halifax and had marched from New Brunswick during the winter; detachments were at the same time sent to the regiments quartered in the province. There was, consequently, so strong a force in Canada as to make any further attempt against the government out of the question.

Nevertheless, although no apprehension was felt of any serious outbreaks, during the winter there were continued attacks on isolated homesteads on the lake Champlain frontier. The houses of known loyalists were assailed; the insurgents driven from Canada, with the feeling of having been hopelessly subdued, gratified their so-called patriotism by acts of the most infamous ruffianism. The whole frontier was kept in continual alarm; especially the families of those who had taken any prominent part in subduing the rebellion. With many who joined in these outrages the hope of plunder was by no means wanting, and the epithet of "brigands" was deservedly applied to them. In some instances, the outrages were dictated by revenge for the capital punishment of the prisoners in Montreal. The opinion had been strongly expressed, that the government dared not punish any French Canadian insurgent, whatever the wrong he had committed. Many of these petty ruffians, contemptible except for the mischief of their cowardly attacks upon individuals, no doubt believed that by these nocturnal acts of violence, they could

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\* See note at the end of this chapter.

deter the government from its resolution of punishing the active organisers of the insurrection, and those guilty of murder. Two instances of these attacks have been placed on record. On the 30th of December, 1838, the house and out-houses of Mr. Gibson, at Caldwell manor, with those of his three neighbours, were attacked by a crowd of sympathisers, who left Alburg, in Vermont, in sleighs. The occupiers of these homesteads were turned out into the cold in the dead of night and the whole of the buildings were deliberately burned.

A more infamous attack on the 3rd of February was made upon a farmer named Vosburg, who resided within half a mile of the line. He was an elderly man who had not taken any part in the late events. His crime, in the eyes of these people was, that his son had served as a volunteer. Information had reached the locality that the men who had sought refuge at Alburg, Swanton, and Champlain designed mischief, and a watch had been consequently kept. Between two and three in the morning of this date the doors were forced by some fourteen men. In the house were the old couple, their son and his wife, with a widow and three children. Money was asked. All that was in their possession was ten dollars, which were given. The place was then looted and set on fire, and an attempt made to murder the men. The leader of the party was described as speaking English well with a French accent; evidently a French Canadian of the better class. He swore as the women were praying for mercy, that he would hang as many "God damn tories" as the government had hanged of his friends. The shouts and the tumult awoke the attention of some United States farmers living on the line, and they hastened to the assistance of the family. They succeeded in partially extinguishing the flames. Although both father and son were severely wounded, they recovered. While plunder was one motive for these expeditions, revenge for the Montreal executions was assigned as the incentive to their actions.

The United States government could not patiently permit these outrages. General Worth was sent in charge of the



lake Champlain frontier, and he immediately demanded from the refugees, who were so infamously abusing the hospitality accorded them, the surrender of the muskets and the munitions of war, which their sympathisers had liberally furnished. General Scott was in command from Ogdensburg to Buffalo; Worth's authority extended to the former place. It is only a duty to relate that they were unfailing in the effort to frustrate these attacks. It was not war. These expeditions shewed neither courage nor enterprise. There is no record where a single attack was made, when there was even the slightest chance of determined resistance. These refugees in numbers assaulted isolated homesteads, containing more women than men, to effect the ruin of families, whose one fault was that they had been true to the British government. Undoubtedly these outrages furnish the foulest and blackest passage in the narrative of the insurrection. So infamous were they held, that no name has come down of these secret assassins, who, from the darkness of the night, their blackened faces, and their rapidity of movement, were enabled to escape detection. Except in the journals of the day, little mention is made of these records of pillage and attempted murder.\*

The courts-martial continued sitting during the year. Of those convicted and sentenced to death, 27 were pardoned on furnishing securities for good behaviour, and were permitted to return to their homes. Four were bound not to come within a stated distance of the frontier. Of the prisoners tried in Montreal, 68 were sent to Quebec, for embarkation on the transport "Buffalo" for New South Wales. They were accompanied by 83 prisoners from Upper Canada. It may here be remarked that within five years they were pardoned and returned to the province.

In September the farce, called the trial of Jalbert and others for the murder of lieutenant Weir, took place at Montreal. I have narrated the distressing circumstances

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\* One recognition only in this catalogue of infamy has come down to us, that of Michel, *dit* Pierre Bruyette, who had been a servant lad in the Vosburg family and was present at the attack of their house.

of this young officer's death.\* The attorney-general, Ogden, and the solicitor-general, Andrew Stuart, conducted the prosecution. The prisoners were defended by Messrs. Walker and Charles Mondelet. The evidence was as clear as such evidence can ever be of the prisoners' participation in the crime. At half-past eleven the court learned that the jury could not agree. There was no course left but to remit the prisoners to prison and discharge the jury. The judges had no sooner left the bench than the whole audience in the court, and it was crowded to suffocation, gave vent to a loud cry of indignation at what was held to be the violation of the oath of the jurymen, who had failed to give weight to the evidence. Two jurymen were known to be for conviction. One was carried on the shoulders of the populace to Mack's old hotel in the market place, now Jacques Cartier place ; the other, with the same excitement, was taken to the Saint Lawrence suburbs.

Such was the excitement caused by this mockery of a trial, which ended in the virtual acquittal of men proved by indisputable evidence to have been guilty of a most foul murder, that it is hard to tell what would have been the fate of the jurymen but for the arrangements made by the police for their safety. Precautions had been taken to meet any intensity of feeling that was anticipated. The jury were even attacked on leaving the box, many receiving blows by no means slight, but the protection of the police enabled them to leave the court-room in safety and to gain their homes. The desire of retaliation passed away, for this exhibition of anger, on the cooler second thoughts which succeeded this outburst of feeling, could find no ground for its justification. Although the storm of anger could be explained, it was not the less to be regretted. The first intention was to bring the prisoners a second time to trial ; but, as it was considered that it was not possible to obtain a conviction from any Montreal jury as then constituted, the proceeding was abandoned and the men were released.

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\* [Ante, pp. 59-61.]

True bills were found by the grand jury against Louis Joseph Papineau, T. Storrow Brown, Robert Nelson and E. B. O'Callaghan. In spite of the amnesty of 1843, the two latter never returned to Canada.

The several volunteer corps of the counties, by a general order of the 4th of April, were disbanded on the 1st of May: only colonel Dyer's battalion, and the Queen's Light Dragoons of Captain Walter Jones, were retained on service.

In January an important ordinance was passed, incorporating the ecclesiastics of Saint Sulpice, and confirming their title to the lands held by them. At the same time provision was made for the extinction of their seigniorial rights. The ordinance required the authority of an imperial act to give it validity, and had so been referred home. Sir John Colborne wrote that its provisions had given satisfaction both to the inhabitants of the city and to the ecclesiastics of the seminary, and that it was necessary for the permanency of the arrangement to be established beyond dispute.

Lord Durham's report was laid before parliament on the 31st of January, and ordered to be printed on the 11th of February, 1839. It caused a profound sensation, equally in the mother country as in the provinces.

Its direct consequence was the introduction by lord John Russell, on the 3rd of July, of resolutions to carry into effect this recommendation of lord Durham for the union of the Canadas; thus repealing the mistaken legislation of Pitt in 1791 of the Constitutional Act, dividing the province into two distinct governments, and cutting off Upper Canada from all ocean navigation: an enactment to make her dependent on the lower province for the revenue from her imports. This provision alone is a sufficient condemnation of the act. But the mischievous policy was followed of encouraging two distinct nationalities, and of creating a spirit of disunion, which remained in activity for nearly half a century. It must be conceded that the measure was not in favour with the French Canadian population. The feeling was entertained, that it would permanently destroy the influence of the French

Canadians in political life, which it had been the effort of Mr. Papineau to elevate to a principle. It was this threatened interference with the power of the French Canadian majority, which he had represented as the policy to be opposed, that had furnished so powerful a means of agitation. There was also a dissenting party in Quebec, who opposed the union led by Mr. Neilson, from fear that the supremacy of the old capital would pass away and be transferred to some other locality. The geographical position of Quebec to the extreme east made its selection as the future capital improbable. With the exception of the small number that entertained these views, the whole British population warmly supported the project, as assuring them sound commercial legislation, the encouragement of emigration, and the general advancement of the province.

In Upper Canada, excepting with the bureaucracy who held the power, which with a new order of things must cease, the union was regarded as the means of remedying much of the discontent felt in many directions. Resolutions approving of the union were introduced into the lower house, and were there carried. In the legislative council they were lost by a majority of two. While the vote of the assembly may be accepted as representative of the general feeling of the province, that of the council may be regarded as the view of the small but active minority which supported the irresponsible executive, and desired to reject the measure as being in opposition to its interests. The general body of the people desired a larger and wider field of action with legislation of broader views. The bureaucracy was not insensible to the necessity of change in many respects, but more who constituted the interior government of the province desired that it should continue on its basis as it then was, and should be subjected to the same control which dominated it.

The propositions of sir John Beverley Robinson and the men he represented foreshadowed to some extent the present dominion, but the policy they advocated was conceived with great injustice to Lower Canada. The proposal was to unite

the four provinces, Upper and Lower Canada, New Brunswick and Nova Scotia, for purposes of general legislation only; leaving them in other respects as they were, retaining their legislatures and distinct autonomy, the plan ultimately followed in the present constitution: the house of assembly for the general union was to meet in Montreal.

The limits of Upper Canada were to be extended to include the island of Montreal, and some of the territory south of the Saint Lawrence with the seigniories extending to the Ottawa, thus adding an additional county for Upper Canada. The assembly and legislative council were to be restored to Lower Canada, so soon as tranquillity was re-established and an adequate civil list provided.

The legislative body of the union was to have the especial power of regulating trade and commerce, and be charged with the duty of improving the navigation of the Saint Lawrence. The other alterations proposed at this date do not call for discussion.

The antagonistic vote of the Upper Canadian council enabled the supporters of the provincial government to represent the opposition to the union in that province as more general, and more formidable, than the facts warranted. When lord John Russell rose to propose his resolution for the union of the provinces, he was called upon by sir Robert Peel at once to introduce his bill. When parliament had met in January, the queen had referred to the troubles of the previous year and had recommended the provinces to the serious consideration of the legislature. Some time was given for the recommendations of lord Durham to be weighed. The report had been published in February, and it was on the 3rd of May that a message was sent to both houses, recommending the union of the Canadas. The two resolutions of lord John set forth the expediency of the union, and the necessity of continuing until 1842 the extraordinary powers given to the special council. When the bill was introduced lord John explained that it was his intention to carry it only to the second reading, so that it might undergo full discussion. He



had received a strong protest against the measure as it had been designed, and therefore deemed it advisable not to press the final legislation during that session. The opposition came from the chief-justice, Mr. Robinson, afterwards sir John Beverley, then in London, who was known to entertain strong objections to any change in the government of the province. His personal influence, always very great, had led to the opposition that had been shewn to the measure. The legislation was, therefore, confined to the passage of the bill to continue the special powers granted to the executive in Canada, and the question of the union was postponed until the following year.

Reports of the appointment of a new governor-general reached Canada in September, and on the 17th of October Mr. Poulett Thomson, who had been president of the Board of Trade, arrived at Quebec by the "Pique" frigate. On the 19th he took the oath of office, and issued the proclamation of his assumption of authority. So soon as it was known that the government of sir John Colborne was to terminate, meetings were held throughout the province, in which addresses were passed, testifying the great respect felt for his personal character, and for the remarkable integrity, judgment, and capacity, with which he had fulfilled the important duties of his government.

Sir John Colborne left Canada on the 23rd by the "Pique." Previous to his departure, he had been invested with the grand cross of the Bath by special authority, as a reward for his services. On the 12th of October, he addressed a general order to the volunteers.\*

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\* I deem it a duty to preserve this general order as representing the deliberate opinion of lord Seaton on the conduct of those to whom it was addressed. It must be held to be the closing chapter of the history of these unhappy times. "Headquarters, Montreal, Oct. 12, 1839. "The governor-general and commander of the Forces cannot leave these provinces without requesting the officers commanding volunteer corps to convey his thanks to the officers and men of their respective districts, for the important services they have performed in defending their country, and the institutions under which they live, from the combined attack of desperate rebels and marauders from the United States. Deeply sensible of the arduous nature of those services, of the hardship and personal

Sir John Colborne had now been in the province above ten years of almost unbroken continuance: as lieutenant-governor of Upper Canada, from the 4th of November, 1828, to the 24th of January, 1836. On the departure of lord Gosford in 1838, he had succeeded to the administration of the province; and on the retirement of lord Durham he had again so acted, to be appointed governor-general in January, 1839. He was now returning to England at the age of 63. In 1838 he had been appointed lieutenant-general; in 1839 he was raised to the peerage as lord Seaton, with £2,000 a year, continued to his successors to the title. He obtained the rank of general in 1854, and was appointed colonel of the 2nd Life-Guards. In 1860 he reached the highest honour of the service, that of field-marshal. He died in 1863.

Sir John Colborne's government of Upper Canada will be considered in the narrative of the events of that province. It may, however, be said here that he acted with great caution and ability. An expression of his own may be quoted that it was "less difficult to discover the traces of political dissensions and local jealousies than to efface them." Had sir John Colborne filled no other position, his name would be simply added to the list of many who for a short or long time perform an important duty, to be forgotten in a few months on their departure from the province. The service he rendered to Canada was after his appointment as commander of the forces, during the governments of lords Gosford and Durham, and his position of administrator and as governor-general until the arrival of lord Sydenham.

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suffering consequent on them, and but too well acquainted with the misery inflicted on the inhabitants of the frontier, who have been incessantly exposed to predatory and incendiary excursions from the states of New York, Vermont and other frontier states, during two successive winters, His Excellency avails himself of this opportunity of recording his opinion, that the forbearance which, under circumstances of unprecedented provocation, has marked the conduct of the volunteers (and which he is confident will be continued) does them honour as soldiers, and ensures them respect from every civilized nation, and that the fearless zeal with which a peaceful and industrial population, imperfectly armed and equipped, came forward to crush the first attempts at rebellion, must be ever gratefully remembered by the empire which they represent, and by the government which they have upheld."

In this trying period sir John Colborne shewed himself to be the possessor of the qualities especially called for in the crisis, an unwavering sense of duty, firmness of purpose, willingness to assume responsibility, and a sense of the necessity of acting with vigour, determination and moderation. His presence totally changed the situation in Quebec and Montreal, for it gave confidence to all who were ready to risk life and fortune in the defence of the institutions on which they based their liberties, prosperity and happiness. On all sides his personal character and ability were made manifest; he gained, as by magic, the confidence of the supporters of the government. Failure was experienced in no one of his combinations. In all directions success attended his endeavours, and with unswerving purpose he directed the power at his disposal to crush the revolt of 1837, that, so far as Lower Canada was concerned, it lay prostrate.

It must ever be one of the most satisfactory events in Canadian history that at the close of the first rebellion of 1837 not a single execution took place. There was no shedding of blood, but in its place an amnesty such as in like circumstances had never before been granted. What it might have been if the insurrection had made headway, may be judged by the murders of Weir and Chartrand in 1837, and of Walker, of La Tortue, in 1838. There was no cry for punishment. The endeavour on the part of the authorities was to throw a veil over the past. In this effort sir John Colborne was a prominent actor.

When, in spite of this merciful treatment of all who had taken part in the first revolt, the second rebellion of 1838 broke out, there arose the feeling that the law must be vindicated, and the lesson be taught that the peace of the country could not be disturbed with impunity, and that to engage in an outbreak was not a harmless political promenade. A stern lesson had to be taught, that such an enterprise was one of life and death. The emergency was met by Colborne with that sense of duty which was a part of his character. That foolish amiability springing from the false sentiment of

unwillingness to vindicate society at the cost of individual suffering has no place in the mind of the true statesman. It in no way operated on Colborne's sense of duty, not from hardness of heart, or remorselessness of purpose, for his heart was most humane and full of kindly emotions. His natural sense of right and his experience had taught him that there are occasions when justice is forced to follow the lines sternly traced for those in authority, and in order that the public good may not be weakly sacrificed. His assent to the twelve executions following the court-martial, given with great pain, may be traced to the sense of the necessity of example, to shew that the nemesis of the insurrection was certain to follow. There was no unworthy thought of vengeance in his nature, no feeling of removing men of influence, dangerous from their ability and energy. Those who suffered were remarkable for no commanding qualities. Six had committed murder, cold-blooded and unprovoked, for political causes ; the remainder had been active leaders of revolt, and were prepared again to embark in a similar enterprise, led on by vanity and the prominence they had obtained. The number pardoned by sir John Colborne shews the sentiment of humanity he was ready to exercise. At the request of general Wool, he allowed several refugee families to return to Canada ; and when Mr., afterwards sir George Cartier, and Rodier expressed their readiness to make their submission and asked to be re-admitted to citizenship, they were at once permitted to return. The recognition by the imperial government of his services was only the just reward of his patriotism, his worth, his devotion to duty, and his entirely successful grappling with the difficulties that lay in his path. He crushed the hydra of rebellion. Except for the hope of aid from the United States, and the encouragement to those engaged in it given by men of mistaken views in England, it would not after 1837 have again raised its head. When, however, the insurrection was repeated in 1838, in a week it was ended.

## POLITICAL EXECUTIONS, 1838-1839.

Friday, 21st December, 1838.

JOSEPH NARCISSE CARDINAL, by profession a notary, was member of the house of assembly for Beauharnois. He resided at Chateauguay and had long been conspicuous in the acts of violence committed in that place, which had ended in the rebellion. He had been included in the amnesty; nevertheless, he had headed the attack against the Caughnawaga Indians. As a man of some education and intelligence, he was fully aware of the responsibility he was assuming; and having been followed with implicit confidence by the *habitants*, was the cause of the misery which desolated many families.

JOSEPH DUQUETTE had been a leader in the invasion attempted at Missisquoi bay with Gagnon and Bouchette. He had acted with great violence towards the loyalists at Chateauguay and had been prominent in the attack on the Caughnawaga Indians. He is reported to have kept a tavern and to have exercised great influence with the rural population as a fomentor of discord, and to have occupied a position of command with the insurgents. He had been benefitted by the amnesty.

18th January, 1839.

PIERRE THEOPHILE DECOIGNE was a notary at Napierville, at which place he had been active in support of Nelson, and in the persecution of the loyal inhabitants. He was tolerably well educated and had deliberately taken part in the attempt of Côté and Gagnon. He had hoped to be reprieved, for his execution had been deferred that his case could be considered. It was held to be one when an example should be made, and he suffered the extreme penalty of the law. He was young, being only 29.

JOSEPH JACQUES ROBERT was the leader of the party that acted with violence towards the loyalists of Saint Philippe, Saint Constant and Laprairie. He was a well-to-do farmer at Saint Philippe, with little education, but of a violent character. He had been prominent in the attack of the house, and in the murder of Walker on the 3rd of November. He had always been devoted to Papineau and had been among the first to resign his commission as captain of militia. He was a man of advanced age. The proof was so strong against him, that he asked few questions of the witnesses who testified against him.

FRANÇOIS XAVIER HAMELIN had been a lieutenant in Robert's company. He was but 18, and his family were all loyalists. There was every desire to save him, but his participation in the murder of Walker was so clearly established that mercy could not be granted in his case.

The two brothers SANGUINET were both proved to have taken an active part in Walker's murder. They belonged to an old Montreal family, the remembrance of which is still retained in the street which bears their name. The eldest, AMBROISE, was a *cultivateur*, living at Saint Constant. The second, CHARLES, two years younger, had his farm at Saint Philippe. On the movement of the 3rd of November, under Robert, Ambroise was captain, and Charles,



lieutenant. The father had been proprietor of the seigniory of Lasalle in the county of Laprairie, but owing to a law suit having been decided against him, it had passed out of his possession. The sons conceived their father had been unjustly treated by the government, and they had been its constant violent opponents from the days of lord Dalhousie. Thus of the five executed in December and January, four suffered, not simply for insurrection, but for murder of an unoffending person killed before his wife and children for no personal motive, but for the loyalty of his opinions.

15th February, 1839.

PIERRE RENÉ NARBONNE was a house painter by trade and an usher of the court. He had attracted attention by his activity in 1837. Fearing arrest, he took refuge in the United States, and joined the attempted invasion under Gagnon and Bouchette at Moore's Corners. Hearing that some attempt was to be made in the county of the Two Mountains, he attempted to reach Saint Eustache, where he was arrested. On being included in lord Durham's amnesty he returned home. His wife, however, had died, as he held, owing to the cruelty of the government in having arrested him for his part in the insurrection. With this fancied wrong in his mind he joined Nelson at Napierville, and received the rank of colonel. At Odelltown he had been prominent in the attack. Arrested before he could reach the lines, he was tried at Montreal.

MARIE THOMAS CHEVALIER DE LORIMIER was of a respectable Montreal family, practising law, and married some six years. In the election riot of the 21st of May, 1832, he had been wounded, having been engaged in the fracas. He had always been an enthusiastic supporter of Mr. Papineau and throughout sustained his most extravagant pretensions. He has been mentioned as one of the great inciters of the rebellion at Saint Eustache, but he failed to take part in the resistance in which Chénier engaged. He managed to escape to the States and his wife had joined him at Plattsburg. During the following year he made frequent visits to the county of the Two Mountains and to Beauharnois, and had been extremely active in spreading the agitation which was to break out on the second attempt. He was present at Beauharnois on the 3rd of November, when the steamer "Henry Brougham" was seized and arrests were made of the inhabitants of the *manoir*. He was proceeding to join Nelson at Napierville when he heard of the defeat at Odelltown. The party separated, and de Lorimier with others attempted to reach the United States. They were stopped by a picket, who fired upon them. Some of the party rushed onward and escaped. De Lorimier turned back, and having lost his way, was taken prisoner. He was tried with several others. All were condemned to death. Their sentences were commuted, except that of de Lorimier, who suffered the extreme penalty, having continued prominent in the insurrection after having been included in the general amnesty.

CHARLES HINDENLANG, as has been related, was taken at Odelltown. He made a great effort to obtain pardon and published a lengthy narrative, it may be called a confession, detailing the part he had taken in the outbreak, in which he bitterly reflected on Robert Nelson. It was conceived, however, that he had no

claim to consideration : a foreigner, unconnected in any way with Canada, without even sympathy for the cause in which he had embarked in support of the desperate schemes of Nelson, it was held fit that he should bear the penalty of the misery he had caused. According to his own accounts he was born in Paris in 1810. He had enlisted in the 5th regiment of light infantry, in which he had obtained the rank of a subaltern officer. He had proceeded to New York to engage in mercantile pursuits, and, failing to obtain employment, had been induced to take part in the insurrection.

FRANÇOIS NICOLAS, as has been related, had, in face of the strongest evidence, been acquitted of the murder of Chartrand. He had again taken part in the insurrection, and was made prisoner at Odelltown. His previous crime was not forgotten in the consideration of his case, and his punishment was death.

AMABLE DAUNAIS, an accomplice in the murder of Chartrand and acquitted with Nicolas, was also taken at Odelltown, and suffered with him.

Of the twelve persons executed, it will be seen six were murderers ; five zealous actors in the events of 1838 who had been included in the amnesty of lord Durham ; one a foreigner.

J. J. Robert,	} Engaged in the murder of Walker on the 3rd of October.
F. X. Hamelin,	
Ambroise Sanguinet,	
Charles Sanguinet,	

J. N. Cardinal,	} Engaged in the attack of Caughnawaga on the 21st of
Joseph Duquette,	

September, 1838.

P. T. Decoigne, present at Napierville, 18th January, 1839.

M. T. C. de Lorimier, engaged in the seizure of the " Henry Brougham."

P. R. Narbonne, present at Napierville.

F. Nicolas,	} The murderers of Chartrand taken at Odelltown.
A. Daunais,	

Charles Hindenlang, taken at Odelltown, a foreign adventurer, who could be looked upon only as a " brigand."

## REBELLION NOTES, SO-CALLED.

The New York catalogues of coin sales frequently include a series of items described as "rebellion notes." The term is a misnomer. None such were ever issued in Lower Canada. In the outbreak of 1838, in Upper Canada, Mackenzie when on Navy island availed himself of this source of revenue, and it will be described in the narrative of that event. It is true some notes were issued in the lower province in 1837; but they were totally unconnected with the "rebellion," although in some instances they testified to the popular sympathy of the hope of assistance from the States, by introducing the obverse of the American half-dollar with the eagle, a proceeding which attracted the attention of sir John Colborne. They owed their introduction to the business facilities they extended, to the scarcity of small change, and doubtless to the benefit that the issuers otherwise derived in the increase of their resources, and by generally advertising the firm whose name they bore.

We are indebted to Mr. Breton in his "Illustrated history of coins and tokens relating to Canada" [pp. 235-236] for a list of the names of those who issued them, with their places of residence: information unostentatiously given, which could only have been obtained with much labour and research.

The earliest bill issued in Canada was by Dobie and Badgley in 1790 at Montreal. In 1820 Mr. Benjamin de Wolff, at Windsor, Nova Scotia, had recourse to the practice, and in Halifax in the same year treasury notes were current.

In 1837 the first of this small currency came from the Quebec bank on the 1st of June, and during the following months until November these notes were to be found at no fewer than 28 places in Lower Canada. These places were as follows:

Montreal,	Saint Charles,
L'Assomption,	La Prairie,
La Chenaie,	Boucherville,
Saint Hyacinthe,	Banque de Quebec,
Pointe au Tremble,	Saint Césaire,
Rivière des Chains [ <i>sic</i> ],	Saint Marc,
Saint Denis,	Carillon,
Rivière du Loup,	Saint Hilaire,
Rigaud,	Saint Andrews,
Saint Lin,	Rawdon,
Three Rivers,	Saint Paul de Lavaltrie,
Saint Eustache,	Saint Anne de la Pêrade,
Berthier,	Beauharnois,
Nicolet,	Saint Benoit.

The names of the issuers are for the most part forgotten. In Montreal, there were five such firms, including Cuvillier and Molson. At Saint Denis, Wolfred Nelson made several issues and they remain the best known, for they are by no

means rare. At Three Rivers Mr. Hart followed the system, likewise Mr. Joliette at La Valtrie; and Mr. Scott at Saint Eustache. The names in the other cases are without importance. Not much attention has been given to this subject and many of these notes, from what can be learned, are very rarely met. Indeed, for the most part, they have entirely disappeared. Among the present collectors are Mr. Cyrille Tessier, of Quebec, and Mr. Casault, the custodian of coins in the parliamentary library, Ottawa. I have to acknowledge the assistance I received from these gentlemen in my inquiries.

BOOK XXXV.

UPPER CANADA.

LIEUTENANT-GOVERNORS

SIR PEREGRINE MAITLAND,

SIR JOHN COLBORNE

[LORD SEATON.]





## CHAPTER I.

The preceding books have been confined to the events of Lower Canada, from the assumption of power by sir Gordon Drummond in 1815 till the arrival of Mr. Poulett Thomson, lord Sydenham, in 1839. Owing to the translation of sir Gordon Drummond to Lower Canada in April, 1815, there had been in Upper Canada a succession of administrators of the government. Sir George Murray performed the duty for two months until the 24th of June. He was succeeded by sir Frederick Robinson, who held the position until September, when Mr. Gore arrived to resume the office of lieutenant-governor, in which he continued until the 10th of June, 1817. On his retirement Mr. Smith was nominated as administrator, to remain until the arrival of sir Peregrine Maitland as lieutenant-governor on the 13th of August, 1818. The duke of Richmond died on the 28th of August, 1819. In February, 1820, sir Peregrine was appointed administrator of the lower province; consequently, he remained in Quebec until the arrival of lord Dalhousie in June, 1820.\*

I have therefore to continue the history of the upper province from the date of the resumption of his government by sir Peregrine Maitland in 1820, after the death of the duke of Richmond.†

In the examination of the events of that date, we must bear in mind the peculiar position of Upper Canada: its limited population, the system of government which prevailed under the control of the colonial office, and the want of capital which impeded the progress of public works. The population may be estimated at between 125,000 and 130,000.

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\* That intermediate period has been narrated by me in book XXXI.

† [Ante, Vol. IX., p. 248.]

In the first census, taken four years later, in 1824, the number of souls was 150,066, scattered over the province, with a form of government for twenty-fold the number. An important feature of the time was the repressive spirit which checked all self-assertion. In the days preceding the reform bill, it was exercised in all directions to restrain any tendency to demand a more liberal system of government. I have related the extent to which in these years this feeling dominated in the mother country. In Upper Canada a slight assertion of liberal opinions brought with it the charge of disloyalty and revolutionary principles. Those who possessed power and influence were resolved on maintaining their positions. The main source of power was the lieutenant-governor, in whose gift the appointments lay; for the vote of the house of legislature was operative only to the extent of rejecting a measure submitted to it.

Sir Peregrine Maitland's government continued until 1828. The one important event connected with it was the construction of the Welland canal, a work which forced itself on public attention by the necessities of the province. Sir Peregrine shewed little encouragement to enterprise. His desire was that the public business should go on quietly and regularly, with no interruption to the even current of events. Personally he held the tory opinions of the British ministry, and fully accepted the doctrine, that the province was to be governed in strict accordance with the principles laid down in his instructions. He never for a moment doubted the wise supremacy of the colonial office. He was much under the influence of his executive council, for although of high character as a soldier, in civil government he did not rely on his own judgment. The more pleasing social duties of his government found in him an admirable representative. In the discharge of these obligations he was most gracefully assisted by his wife, the lady Sarah, who to the last retained her beauty and charm of manner. The tendency of this influence was to raise up a government-house clique, as in all petty communities, in no way wanting in unlimited self-

appreciation and its consequent self-assertion. With these views of their own importance, those who constituted "the set" desired to restrict it to as narrow a circle as possible. It was an influence long felt in Toronto life, and it is not possible to affiliate to it the happiest consequences.

The legislature met on the 31st of January, 1821, being the first session of the seventh parliament. Mr. Livius Sherwood was appointed speaker, Mr. Robert Nichol, Mr. Alexander McDonell, and Mr. Allan McLean having been previously severally proposed and rejected.

The lieutenant-governor's speech dwelt on the accession of George IV. ; the happy constitution granted to the province ; the duty of promoting the interests of true religion ; and the benefits to be derived by emigration from the mother country. Lately forty townships had been surveyed, he said, and most of the land had been granted for actual settlement. He dwelt upon the unsatisfactory amount of revenue, the provincial finances being most depressed, many militia pensions having remained unpaid, and money being required to meet the expense of government.

The majority was favourable to the views of the executive, and it soon became plain that this house during its four years continuance would raise no unwelcome issue. Some useful acts were passed, the establishment of a uniform currency, and, what was of the highest importance, a grant was given for a survey of the route of the Welland canal, then commencing to claim attention. What must give rise at this date to some unpleasant reflections was an act for the preservation of salmon, for that fish is now entirely unknown in Ontario waters. An act was passed for the punishment of persons illegally solemnizing marriage ; likewise an act of incorporation of the bank of Upper Canada.

Resolutions had been carried that no tithes or ecclesiastical rates of any kind should ever be raised in Upper Canada. The act which was passed was reserved for the royal pleasure, an affirmation of a principle which remains supreme in the province. Prorogation took place on the 14th of April.

The governor-general alluded to the appropriation for opening a road from the Ottawa, through Richmond and Perth to Kingston, as the only grant the house had been able to make for a public purpose.

The vote for the survey of the Welland canal may be regarded as the first step in the inception of that work, the construction of which in its several enlargements was to continue for sixty years.

When the question of the Canada act was under consideration of the house of commons in 1791, Mr. Adam Lymburger attended, to protest against the division into Upper and Lower Canada. He contended that there was less reason for the division, as Niagara would prove the limit of the province; that beyond this point, the country offered no facilities for settlement, for the falls of Niagara presented "an insurmountable bar to transportation of such rude materials as the produce of the land."\*

Of all the chain of canals in the development of the Saint Lawrence navigation, there is no single provincial work in which more pride is felt than in the Welland canal; especially since its enlargement to locks 270 x 45, with 14 feet on the sills. Its total cost to 1895 has been \$24,128,340.†

The construction of that remarkable work, the Erie canal, in the state of New York, to a great extent suggested the positive necessity of overcoming the gigantic obstruction presented by the falls of Niagara. The war of 1812 had emphatically enforced the consideration of the problem. Indeed, it was an impossibility that it should escape consideration. One of the earliest writers on this improvement was Gourlay, who in 1819, when in Niagara jail, printed a letter on the subject. In his "Introduction to his statistical account of Canada," published in London in 1822, he gave a map of the district and laid down the line of a proposed canal. His scheme was to follow the Niagara river to Queenston, and by 10 locks to gain the higher level at Saint David's in two miles, at which point the remaining height

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\* [Ante, VII., p. 314.]

† Statistical Year Book, p. 636.



would be overcome by 30 locks, the total difference of level being 320 feet; thence by a canal of five miles reach the Chippewa creek or Welland river, which discharges into the Niagara river. Mr. Hamilton Merritt, who was prominent in practically carrying out the first plan, claimed that it was he who communicated the idea to Gourlay. It may, however, be safely said, that the desirability of such a work had been a common topic of conversation for years.

The original scheme as proposed at this date was for a barge navigation, by ascending the Welland river or Chippewa creek, and to tunnel through the high ridge of land in the township of Thorold, thence by an open cut to proceed to the brow of the high land; this height of land to be overcome by a railway, at the base of which an open canal would connect with the navigable waters discharging into lake Ontario.\*

The house again met on the 21st of November, 1821. The speech of the lieutenant-governor dwelt upon the unsatisfactory relations with the lower province regarding the duties payable to Upper Canada. Such duties formed the principal source of revenue, and the non-payment of them interfered with the progress of the public works. He pointed out that the revenue had not decreased, notwithstanding the depression both of trade and agriculture. With the view of promoting the interests of the latter, he trusted that some encouragement would be given to the cultivation of hemp. He dwelt on the necessity of unanimity between the branches of the legislature, in order to assure good government.

I have mentioned the name of Barnabas Bidwell† as the writer of the memoir in Gourlay's "Sketches of Canada." A vacancy having occurred in the representation of Lennox and Addington, Bidwell presented himself as a candidate on the liberal side, and was returned. On the fourth day of the session, his election was petitioned against on the ground that

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\* At the conclusion of this chapter I have given the history of the construction of this canal down to the date of its present enlargement.

† [Ante, Vol. IX., p. 211.]

he was a person of immoral character, and a fugitive from justice ; further, that he had taken the oath of citizenship in the United States. An agent sent to Massachusetts to obtain evidence of the accusation had returned with the documents purporting to sustain that view. Bidwell contended that the charges were those of his political enemies. On the matter of the oath, he maintained that it only applied to the period of his residence in the country, and was no disqualification to settling in Canada, or his admission to the oath of allegiance in the province. After a long debate on the motion for his expulsion, it was decided against him by one vote, the numbers being 17 for and 16 against. Accordingly a new writ was issued. An act was passed during the session making citizens of the United States ineligible to a seat in the house. Owing to the influx of settlers of this class, and from the prevalence of more liberal views, this act was modified in 1824. It was then enacted, that a residence of seven years in the province would furnish the qualification for election as member of the assembly, the oath of allegiance having been taken. All persons, however, who had held any public office of position in the United States remained disqualified. This enactment was subsequently repealed in 1834.

The unsatisfactory relations of the province with Lower Canada, in the matter of the revenue, led to attorney-general Robinson being deputed to proceed to England to press the claims of the upper province on the imperial government, £2,000 being allowed to defray his expenses.

In December a joint report had been agreed to by the council and assembly, relative to the unsatisfactory condition of the arrangement with Lower Canada for payment of the duties due to the upper province. It had then been resolved, that a bill should be passed authorising the appointment of a commissioner to proceed to England, to lay the address at the foot of the throne. On the 3rd of January, the attorney-general had been selected.

During the session, on the motion of Dr. Baldwin, the

management of the provincial post-office was investigated, and the results of the inquiry were reported at some length. Dr. Baldwin likewise moved, that what was known as the sedition act should be repealed, but the motion was lost.

The house was prorogued on the 27th of January. Twenty-six bills received assent. Two were reserved, one bearing upon the receiver-general's salary, the second to make more adequate provision for the office of the attorney-general.

In his speech the lieutenant-governor explained, that he had called the house together at a season not usually chosen for meeting, owing to the difficulties in regard to revenue with the sister province. It was with great satisfaction he had seen the manner in which the question had been met. He congratulated the house on "preserving the province from foreign influence by disqualifying certain persons from holding a seat in the assembly." He again dwelt on the necessity of having a good understanding with the other branches of the legislature, in order to do justice to the public service.

In 1822, the failure of the bank of Kingston took place, under circumstances highly discreditable to those involved in it. An event of this character to-day would not attract public attention powerfully; but at that time, although the amount involved was small, it caused loss to be sensibly felt in a great many quarters, for money was scarce, and it had been gathered in many instances by false representations. In 1819 the residents of Kingston, in violation of the law, commenced their operations in that place as the "Bank of Upper Canada," and invited subscriptions, by which means a paid up amount of £12,000 was received. The subscriptions of the directors had for the most part been paid by their notes. In 1823 notes of the bank to the amount of £18,997 14s. 3d. were in circulation. The institution met with fair success, and it may be believed that, if honestly conducted, it might have prospered. Two directors borrowed from the bank a sum equal to the paid up capital. At a later date, the president and a director opened a broker's office, and on money obtained from the bank

engaged in loans, granted on extreme interest. The remaining directors resented the proceeding, and in August, 1822, suspended the president, one Whitney. He immediately left for Montreal, and obtained, under false pretences, from the agent of that city £8,000 in notes lying in that branch. Whitney used £1,000 of these notes for his own purpose, and refused to give up the balance in his possession. The facts became known, and a run on the bank followed. Much of the capital had been used to meet the system of reciprocal endorsement called by bankers "kite flying," therefore the limited specie available was soon exhausted. On the 3rd of September, 1822, the bank failed.

In 1823 the legislature vested in commissioners the affairs of the bank for the benefit of the creditors. The liquidation dragged on for years. The original capital was lost, but a certain amount of the notes was redeemed in various ways by 1825.\*

The history of this failure was as disreputable as it was marked by misfortune.

During this year, 1822, the project of the union of the Canadas was considered. I have described the reception it generally received in my narrative of the history of Lower Canada.† In Upper Canada, opposition was shewn to it by those who were personally satisfied with the condition of the

\* The journal of the Canadian Bankers' Association, December, 1894, pp. 140-142, "The Canadian banking system, 1817-1890," by Roeliff Morton Breckenridge, P.D., Columbia College, New York. Dr. Breckenridge sets forth the affairs of the bank as follows:—

ASSETS.	LIABILITIES.
£ (currency.)	£ (currency.)
Debts due the bank by bonds	Stock paid, no account being
and notes..... 22,227	taken of the directors' notes. 7,896
Book debts..... 1,000	Notes unredeemed... 18,176
<hr/> 23,227	Deposits..... 900
Deficiency to be made up by	
cashier..... 5,884	
<hr/> <u>£29,111</u>	<hr/> <u>£26,972</u>

† [Ante, IX., p. 283.]

province; and to whom the change would not have been advantageous. They, and those sustaining them, were enabled to offer such opposition to the measure as to make it doubtful if it would command support. The numerical majority, however, was in its favour. There was much in its details that was objectionable, especially the high qualifications proposed for members. The history of its submission to the province has been related, together with the passage of the Canada Trade Act, which, although regarded in the lower province as a national wrong, was received in Upper Canada simply as an act of justice.

When the legislature met on the 15th of January, 1823, the Canada Trade Act was the subject of congratulation by the lieutenant-governor. He had transmitted the address voted to the king by the commission appointed to the charge of it. It had been received with the attention it merited. Not only had the means of remedying the evils complained of been attained, but steps had been taken to prevent their recurrence by the comprehensive measure enacted by parliament. The union bill was reserved to a future session.

A constitutional question came before the house on the petition of the freeholders of Lennox and Addington. On the expulsion of the elder Bidwell, a new election had been held and his son Marshall Spring Bidwell had presented himself as a candidate. He had been born in Massachusetts before the treaty of Paris, and had never taken any oath of allegiance. He had as a young man accompanied his father to Bath, where he had lived since 1810. He had been carefully educated, and undoubtedly possessed great ability; indeed, he subsequently became a speaker of the house of assembly. The member declared to be elected was a Mr. Christie, of tory opinions; the election was petitioned against on the charge of corrupt practices. It was claimed that Bidwell was an alien, and could not petition as a candidate. He was accordingly denied the right of personally contesting the election. He appeared, however, at the bar of the house as counsel for the petitioners. The election was declared void,



and a new writ ordered. On this occasion, the returning officer was directed to receive no votes for Mr. Marshall Bidwell, for the reason that he was an alien. This election was also set aside, on the ground that the poll had been prematurely closed.

During this session it was enacted, that in the more populous districts the assizes should be held twice in the year. The session itself terminated on the 19th of March.

In the summer of 1823 sir Peregrine visited various parts of the province. No particular question then attracted public opinion; the disquiet of the preceding years, at no time of any particular force, had passed away, and the progress of the province, if not distinguished by those sudden transitions by which a few settlements in the forest are transformed to busy centres of life, had been steady and apparent. The great drawback to any progress in Upper Canada was her incapacity to control the imposition of duties by the Saint Lawrence, owing to the non-possession of a sea-port. The revenue laws of the province applied only to the imports from the United States, and the laxness with which they were administered led to much smuggling. It was a ground of complaint that a large quantity of United States lumber was introduced into Quebec and Montreal as a Canadian product, and so shipped to England. The scarcity of money still prevailed, although bank agencies had been established in the more important commercial centres. A large amount of counterfeit notes had been issued by United States forgers, and had found their way into circulation, the valuelessness of which was constantly discovered. There was no market for produce beyond that consumed in the province itself, for there were no means of exporting it, except at a price to make the effort of no advantage. Hence the market prices continued to be unremunerative, a disadvantage felt in every condition of life.

The consequence was the growth of a strong political feeling adverse to the government. Men became dissatisfied with their straitened circumstances, and the absence of all

prospect of improvement. The revenue was so limited as only to meet partially the expense incident to public business; even in some neighbourhoods works absolutely indispensable were left unexecuted, from the incapacity to pay for them.

A system of public improvements on a comprehensive scale was understood to be the first requirement of the country, and it was this feeling which led to the support given to the Welland canal. It may now be recognised by all who pay attention to the history of this undertaking that it would have been more advantageous for the province from the beginning to have carried on the work. It was the reverse of prudent to allow a few irresponsible, energetic men with no experience in such duties, and no aptitude to conduct them but unflagging perseverance, to obtain control of the project and unnecessarily waste a large amount of money, only imperfectly to develop the enterprise.

The last session of this parliament met on the 11th of November, 1824. It was in this session, owing to the proceedings in the Lennox and Addington election, that the alien law of 1822 was modified, the previous election having been declared void.

The question of the clergy reserves came before the house, and on the ground of the national existence of the church of Scotland, the presbyterians as protestants were declared to possess a legal claim to their proportion of the grant. An address embodying this view was voted to the imperial parliament, with whom the decision of the matter lay. An act of intolerance was committed by the upper house, which did not aid the political party who supported it. Indeed, nothing could have been more impolitic on the eve of a general election from its certainty to alienate all who came within its operation. Any marriage performed by a methodist minister had hitherto been illegal, and an act was introduced and carried through the lower house, to permit ministers of that denomination to conduct the ceremony, giving to its solemnization the legal status of which it had been deprived. It is scarcely

conceivable that this just and wise provision was rejected by the legislative council, but such was the case. Great dissatisfaction was felt at the arbitrary refusal to grant the relief asked, a feeling which shewed itself in the ensuing election.

The attempt was made to suppress the processions of the Orange Order, which by this time had assumed a directly political character. No ground for the exercise of the religious spirit it claimed to encourage could be advanced, as the explanation for its existence. There was no aggressive spirit against protestantism to be counteracted. The processions were, however, conducted in an orderly and decent manner, and as in that respect there was no room for complaint, the measure failed. Prorogation took place on the 19th of January.

The elections for the new parliament came off during the summer, by which for the first time many men who subsequently obtained prominence in Upper Canadian life became members. The younger Bidwell was elected, the question of his disqualification as an alien having been settled, with similar cases, at the last session; likewise, Dr. Rolph and captain Matthews, with many who partook of extreme liberal opinions. From this date, may be traced the more active spirit on the part of those members who year by year came more into opposition with the system that prevailed.

Dr. Rolph, who took an active part in politics until his death, first entered public life at this date. He was 31 years old, having been born in Thornbury, Gloucestershire, on the 4th of March, 1793, one of a family of eighteen, he being the second son. His father, a medical man, had emigrated to Canada before the war of 1812. During the war Rolph served as paymaster, and was taken prisoner, but was exchanged. It is related that he attended some terms at one of the colleges at Cambridge, but took no degree. Finally, he proceeded to London, became a law student, and was called to the bar of the Inner Temple. While in London, he also continued his medical studies, which it may be inferred he had followed from boyhood with his

father. On his return to Canada he took up his residence in the Talbot district, now the county of Norfolk, and was called to the bar in 1821. After this time, he practised law and medicine, and became the friend of colonel Thomas Talbot, the founder of the Talbot settlement. His liberal opinions seem to have had the effect of interfering with this intimacy, as Talbot was a legislative councillor and a supporter of the official party, for shortly afterwards Rolph removed to Dundas. At this election he was returned for Middlesex. Rolph is always spoken of as Dr. Rolph. I cannot find that he had any distinct claim to the title, but it appears to have been a conventional mode of speaking of him. It is said that he became a member of the Royal College of surgeons, having attended the lectures of sir Astley Cooper. Of his ability as a medical man there can be no question. His name in this respect is still held in esteem. He practised as a barrister until 1828, when, in the dispute raised by Mr. justice Willis with Mr. justice Sherwood, considering the former unfairly treated, he publicly left the court as a barrister, never to return in that capacity. Two years later he entirely abandoned law, and in 1831 moved to Toronto as a medical man.

His colleague was captain Matthews, a retired officer of the Royal artillery, who had twenty-seven years' service. He had not been received by the official set in Toronto and, like many similarly situated, had established himself elsewhere. He had settled in the county of Middlesex, and entertained personal, as well as political, opinions antagonistic to the Toronto clique. Hence he had drifted into somewhat advanced liberal views. His place in Canadian history would be but slight, but for the extraordinary treatment he received, which conveys no favourable view of the character of sir Peregrine Maitland.

Matthews' adherence to the liberal party was in every sense disagreeable to the official side of the house, especially as in this parliament its supporters were in a minority. He was a man of kindly manners and good education, and had obtained much influence in the township of Lobo, in which he

lived. In the house he spoke well and with good humour, but always in advocacy of the liberal side of the question, and in support of change in the administration of affairs. Matthews was in receipt of a pension for his service, and it was made a reproach to him, that as a recipient of the royal bounty he should advocate the opinions he expressed. In the petty political life of Upper Canada of this period, when the entire population was less than 150,000 souls, there was a personal element always coming to the surface utterly unknown in large communities: the extreme of provincialism in its narrowest aspect. That an officer of artillery should ally himself with men who claimed the reform of what they denominated great abuses, was construed into a personal insult to the lieutenant-governor and the official body that surrounded him. On his side, captain Matthews was not the most prudent of persons, and expressed his opinions of men and measures with little reserve. An event occurred during the second session of this parliament, which extended from the 7th of November, 1825, to the 30th of January, 1826, that had an unfortunate influence on Matthews' career. In December a company of actors from the United States visited York. Their season had been unfortunate. In the hope of obtaining some money to leave the town, they applied to the legislature for its patronage, which was granted; and some eighteen members attended the performance on new year's eve of 1826, among them Matthews. Between the acts "God save the king," "Rule Britannia," and "British Grenadiers" had been played with the usual enthusiasm, when a call was made for "Yankee Doodle" and "Hail Columbia." The band could not give the last named, but "Yankee Doodle" was played. Some one, and it was not established who it was, called for "hats off." Matthews, who on that occasion "had dined" and was in some efflorescence of spirits, joined in the demand. It is plain from the evidence that very many of those present had drunk more than they ought to have done. In modern days such an exhibition, at the worst would have been treated as an offence against good manners, and the censure would



have been strongly tinged with ridicule. The matter, however, must have been represented in some extraordinary form to lord Dalhousie, the commander of the forces. The incident had been mentioned by the Quebec papers with great exaggeration, but the account there given does not suggest the extreme course followed by lord Dalhousie; a proceeding to be read with pain by those who do justice to his good qualities.

Through the military secretary, on the 20th of March, the commander of the forces informed captain Matthews, that his attention had been attracted by the public prints to his conduct, in having in a notorious and outrageous manner called for the national airs of the United States, insisting that the audience should take off their hats, as was customary during the performance of the national airs of Great Britain. Finding the statement corroborated upon inquiry, lord Dalhousie asked for an explanation of this utterly disloyal and disgraceful proceeding. Matthews subsequently, in December, received an order from colonel Cockburn, commanding the artillery, to proceed to Quebec, and remain there until he could take the first vessel to England. This order had been sent by the colonial secretary, in consequence of a communication received from the secretary of the board of ordnance.

This wanton act of folly and tyranny did not pass without a serious protest. Whoever prompted the proceeding miscalculated its effect. It is difficult to assign a motive for it. It could not have been to weaken the opposition, for its strength could not have been affected by the loss of one vote. It is not impossible that the design was to deter men in the position of Matthews from giving support to the liberal side. Matthews, as a member of the house, could not technically absent himself without permission, and on Thursday, the 28th of December, 1826, he made the application for leave in order that the house might do its duty. The leave was refused, and on the motion of Dr. Rolph, a vote was also carried for the circumstances to be investigated by a committee.

The inquiry established that few ladies were present. Several members of the legislature had attended. It was new year's night, and many had celebrated it by excessive drinking. Matthews had called for these airs, there is little doubt, in mere hilarity, without any object. The report of the assembly exonerated him from disloyalty, and complained that if mere effervescence of feeling upon a jovial, or innocent occasion should be magnified into a crime by the testimony of secret informers, it would be a dark day for Canada. The committee dwelt upon this view plainly and at length, and expressed its inability to learn by whom the "pernicious representations" had been made to the newspapers, and to find the source whence lord Dalhousie had procured the corroboration of the report he had heard. There was no ground for the charge, the malignity and falsity of which they believed to have derived their origin and support from political hostility towards Matthews.\*

The affair ran the gauntlet through the United States press and that of the maritime provinces, to be alluded to with the greatest contempt. The matter did not stop here. It is painful to have to relate, that the military authorities adopted the scandalous policy of stopping the pension of captain Matthews after twenty-seven years' service. He had a large family, and the loss of this income seriously affected his circumstances; so much so that he resigned his seat in the assembly and went back to England to obtain justice. His pension was restored, for even in those days of arbitrary rule the minister could not with impunity have committed the act of tyranny of crushing a deserving officer for calling for the air of "Yankee Doodle" in a moment of joviality. But Matthews was virtually ruined by the proceeding. He never

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\* Report of the select committee, Toronto, 1826-27. It is undated; the minutes of evidence, however, run from the 29th of December, 1826, to 2nd of January, 1827. There are passages in this report which read like a chapter from Dickens. The letters from the military secretary, the commanding officer of artillery, and the secretary of the board of ordnance, ordering Matthews' return to England, remain the painful exception to this classification.

returned to Canada, and by all accounts did not long survive the event.

If there is any one whose good name receives a taint from this act of persecution it is that of the lieutenant-governor, sir Peregrine Maitland. The facts must have been well known to him, for the proceedings of the committee were printed in the journals of 1826-1827. A few words from him to the colonial minister would have given a right complexion to the affair. These words were not written, and the discredit of his silence throws upon him the charge of being a passive supporter of the persecution, in place, as his manifest duty suggested, of protecting an injured man, unjustly assailed.

To return to the assembly elected in 1824. Among the new members returned was Mr. Peter Perry, who with Bidwell had been elected for Lennox and Addington. During the remaining years of the autonomy of Upper Canada as a distinct province, Perry took an active part in politics on the reform side. He was the son of a U. E. loyalist, born at Ernestown, in 1793. He was then thirty-one years of age. He had received a very plain education. His ability, however, was undoubted, and he possessed the natural gift of oratory, which, with his impulsive, earnest nature, obtained for him great influence. He had accepted liberal opinions owing to the relationship he had formed with Bidwell, whose cause he had supported. In this election he was returned as Bidwell's colleague. His name remained before the public for ten years after the union, when he was one of those who became prominent in forming the "clear grit" party. He died in 1851.

The legislature met on the 11th of January, 1825. The vote on the speaker was 21 to 19 in favour of Mr. John Willson, one of the members for Wentworth. As he was the nominee of the liberals it shewed that the majority lay with the reform party. Willson was not a man particularly distinguished. He lived quietly on his farm, was possessed of strong good sense, and had had some experience in the house. It was felt that his judgment could be relied on. Moreover, his feeling on the subject of reform was not disputed.

A few days before the meeting of the legislature the house of assembly received such injury from fire as to be perfectly untenable. The fire broke out on the northern wing between midnight and one o'clock of the 30th of December, 1824, in the rooms used by the clerk, Mr. Powell, and his staff. That wing and the main body were entirely destroyed. The southern wing was saved by great exertion. Many important parliamentary papers were burned, but the library the furniture and all that was of value in the centre building were saved. The loss was estimated at £2,000. The legislature found accommodation at the hospital.

The address to the lieutenant-governor was agreed to without a division. The house sat until the 13th of April. Seven bills only became law. The supply bill passed in the lower house. Not being in accord with the estimates sent down, it was thrown out by the council.

Mr. W. Lyon Mackenzie, at this date, first came into prominence, a position he was to retain for the succeeding twelve years. On the 18th of May, 1824, he had commenced at Queenston the publication of *The Colonial Advocate*. He had then been four years in the country. On his arrival, he had obtained employment, for a few weeks, on the Lachine canal, and had proceeded to York, where he went into business with Mr. Leslie. He shortly afterwards moved to Dundas, where, with the same connection for some fifteen months, he continued the same occupation. In the interim he married. After a short time the partnership was dissolved and he removed to Queenston, where he commenced his career as a journalist. The change does not seem to have been a matter of necessity, for his business was sufficiently profitable, and the step must be attributed to the desire of entering public life.

Mr. Mackenzie was born at Springfield, Dundee, on the 12th of March, 1795. Both his parents were of the same clan and both grandfathers had been Jacobites. His mother belonged to a good family. Her father had held a commission at Culloden; he had accompanied Charles Edward on

the continent and for years had followed his fortunes. On his return he had married the daughter of Mr. Spalding, of Ashintully. His mother was the youngest of ten children except two. When about 44 she married her husband, who had lately returned from Carlisle, where he had been to learn weaving. Her husband was 16 years her junior. He died on the second year of his marriage, in his 28th or 29th year, leaving his one son, William Lyon, three weeks old. In after years Mr. Mackenzie spoke of the extreme poverty of his mother, but she was well connected and must have obtained assistance from her family. Mackenzie himself received a good common school education, and as a boy was engaged in a draper's shop. Subsequently he entered the counting-house of a Mr. Gray, where he gained a knowledge of figures, which in after life stood him in good stead. When about 19 he started a store on his own account at Alyth, near Dundee, and in connection with it, a circulating library, a fact which explains the extensive miscellaneous reading in which he indulged. The venture not proving successful, he made his way to London, where he found respectable employment. In 1820, after his first youth was passed, when twenty-five, he arrived in Canada, with antecedents favourable for a successful business career. In no part of his life did he shew the want of a good plain education, and with the energy of his character he had never been remiss in the effort of self-improvement.

In considering the period when Mackenzie occupied so great a share of public attention, 1826-1837, it must be borne in mind that the theory of colonial government was not that of modern times. The lieutenant-governor was sent out to "govern" in accordance with the instructions he received, and the people were to be "governed," it was expected without interference on their part except in municipal matters. The system, to a large extent, depended on the personal qualities and experience of the lieutenant-governor, whether his mind was capable of determining his own policy, or accepting without challenge that of his council. The



powers of the house remained undefined, and there had been growing up an increasing feeling of discontent with the high hand by which public affairs were conducted. There was strong dissatisfaction felt in many parts of the province, and there arose a vague cry for "reform" without any precise views of the character it should take. The executive council claimed unconditional submission to their policy, and it had shewn in the case of Gourlay how severely contumacy could be punished. There was little money in circulation, and improvements could not be undertaken from want of it. The church of England, in its claim of supremacy, refused participation in the "reserves" to other forms of protestant belief, and there was an attempt to give it the strength of a national church, by the refusal of a legal status to other denominations. An avowed desire to obtain land was generally entertained, and it was one of the cries of the day that those who had influence abused the power that they possessed to obtain large grants for themselves and their families. Public patronage was turned in the direction of the connections, friends and supporters of those in office. In consequence a strong feeling of dissatisfaction prevailed, owing to the arbitrary spirit with which the government attempted to silence opposition, and especially that all who shewed liberality of political views should be described as disloyal and as devoid of personal respectability.

Mackenzie with his newspaper has been described as the advocate of "responsible government," as it is now accepted. I do not conceive that this claim can be maintained for him, or for any public man, until a later period. Mackenzie saw great ground for complaint in the constitution of the executive council, but he did not definitely conceive the remedy for that which he condemned. In many quarters there was a demand for greater responsibility on the part of the council. I have, however, not been able to find, that the reform called for took the distinct practicable character it subsequently attained, when it was enunciated by lord Durham. Possibly, one cause for this vagueness was, that the wider concession

we now possess was known to be regarded unfavourably by most public men in the mother country. One difficulty with Mackenzie himself, which lasted throughout his life, was, that he never correctly estimated the precise value of language. He was rarely exact and definite in the expression of his theories, and his excitable nature often led him to an exuberance of expression that others found objectionable. He also held many contradictory opinions. He always asserted that he possessed a great reverence for the British constitution, and never favoured annexation as an abstract theory. Although the States extended to him a refuge for some years, and his mischievous agitation for many months, owing to the prejudices he encouraged, and the violence of his language, led to exceedingly troublesome and dangerous consequences on the frontier, he never felt at home there. Unlike Bidwell and Robert Nelson, he could not be naturalised to become a permanent citizen. Indeed, from his peculiar character, it is questionable if he could have been reconciled to any condition. After his return to Canada his struggle was to live, and as his son-in-law, Mr. Lindsey, his biographer, tells us, he died a broken-hearted man. Whatever were Mackenzie's faults, and they were serious and difficult to forget, he never sought his own advantage or in any way profited by his agitation. Indeed, he refused the offers of a comfortable provision, which with full propriety, he could have accepted, in the end to die in penury.\*

Mr. Mackenzie's journalism consisted more in articles that vituperated the political condition and social features of the province, than in proposing any remedial changes.

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\* At all periods of his life, Mr. Mackenzie shewed an entire indifference to his personal interest. Shortly before his death in 1865, sir Francis Hincks told the writer, that when he was in office, the situation of post-master of Toronto being vacant, he offered it to Mackenzie, considering that it would be a provision for his old age. Mackenzie, who was then in the assembly, declined the offer, on the ground that the government desired to purchase his silence. As sir Francis Hincks remarked, "our last thought;" for at that time Mackenzie had outlived his influence. This statement has been previously made by me in "Canadian Archæology," p. 83.

He wrote with vigour and with an entire disregard of consequences. The newspaper readers of Toronto were regaled with a totally different literary diet from that which they had hitherto received. It was a new event for the legislative council to be told that "its members were tools of a servile power;" and for the *dolce far niente* of sir Peregrine Maitland to be awakened by being contrasted with the energetic democratic governor of New York, de Witt Clinton. The *York Observer*, the government organ, following the usual ground taken towards all who criticised the government, accused Mackenzie of his disloyalty. He answered it by a narrative of himself and family, and declared that he would rather work for his bread than "submit to the official fungi, more numerous and pestilential than the marshes and quagmires that encircled Toronto."

The *Advocate* did not prove a lucrative speculation. After a few issues, it took the form of a broad sheet, and Queenston not having proved a good centre of distribution, in November, 1825, Mackenzie removed the office to Toronto. It was in this year he petitioned parliament on the subject of the post-office. The matter was brought to the notice of the house and referred to a committee. There was undoubtedly ground for complaint. The management was under the control of the imperial postmaster-general. His representative, the deputy postmaster, was entirely independent of provincial control. The incumbent of the office, Mr. Stayner, a man of ability, had the good sense to pay regard to the representations of the governor-general, but he acknowledged no responsibility to the legislature. All attempts to obtain information were met by the objection, that he could not act without the authority of the postmaster-general, or answer any question submitted to him unless with permission. An impression prevailed which investigation strengthened, that the revenue received was in excess of the expenses, and it was claimed that all such money should be applied to the uses of the province, in accordance with the declaration of the act 18, George III., by which no tax could be imposed on the

province, except for the regulation of commerce, and in such case any surplus should belong to the colony. The British government did not recognise the fact of this excess of revenue. No account was taken of maintaining the Atlantic packet service. Moreover, much of the revenue arose from letters sent from England unpaid, which were paid for in Canada. A large sum was also collected from the military departments, and the answer appears complete, that there was no ground for the opinion entertained.

The hardship specially felt was in the transmission of newspapers, the postage of which formed the perquisite of the deputy postmaster-general. The regulations regarding papers so sent amounted almost to a prohibition of a large circulation. Payment of postage was exacted in advance ; payment to be made by the publisher with no certainty of repayment by the subscribers. At the same time United States papers were admitted free. The same was said of the papers sent from Great Britain. The explanation of that fact lay in the circumstance, that every paper in the mother country was stamped, and the stamp franked the paper through the post.

The committee in its investigation learned that the mail bag on occasions contained goods purchased, besides letters, and that letters were sometimes opened, and were often missing, with other irregularities. The recommendation was therefore made, that the post-office should be placed under the control of the provincial legislature.

Mr. Mackenzie's erratic writing generally had the dominant view of attacking matters as they were constituted. He seemed to have conceived that in bringing some wrong prominently to notice, he assured its remedy. The oppressive feature of public life was in many respects attributable to the political theories of the time. We must bear in mind the period when these events were taking place, during the years prior to the reform bill. The functions of the legislative assembly were not recognised as exercising any direct influence on the government, and the small population of

Upper Canada enabled those who held power, so long as they were sustained by the lieutenant-governor, to act with perfect independence of the assembly. Indeed, it may be said that the house was regarded as little higher than the interpreter of municipal law, and entitled to exercise no parliamentary control on the wider provincial policy. The complaint was general that the house of assembly was only permitted to take so limited a part in the government of the province: but the remedy was not clearly seen. The fact was undeniable that the executive was literally irresponsible, and that, sustained by the legislative council it could set the assembly at defiance, while the constitution of the council made it the invariable supporter of the executive.

Mr. Mackenzie cannot be said at this time to have acted by what are called personal feelings, that is to say, he had no object to gain and no enmities to gratify. He, however, often made the mistake of identifying the individual with the principle he was attacking, and his personal animadversions were unrestrained by any conventional rules. He assailed men in public position, with whom he had no personal difference, as if they were his bitter enemies. It has been claimed on his behalf by these continual representations of the unsatisfactory condition of political life, that he greatly aided the solution of the problem of the establishment of better government. I cannot find that he ever presented a clearly defined view to assure the greater influence of the legislature, or to obtain more direct responsibility to it on the part of the men in power by the favour of the lieutenant-governor. That official, however high his position, had always before his mind the colonial office. So long as its support could be secured, the maintenance of his office was assured; the theory being that every colony should be under home guidance in the fullest sense, and that the dictates issued from London should be patiently accepted by the provincials.

Sir Peregrine Maitland in private life was careful in the observance of every duty. He attended church with regularity, and his devout behaviour has been recorded by



writers of that time, who did justice to this side of his character. He was hospitable and fulfilled with dignity the social duties of his station. His courtesy to all who approached him was undisputed. Unfortunately, Canada was not prosperous, and the lieutenant-governor was not recognised as being active in his attempts to improve its condition. He was still in the prime of life, being in his 47th year, thus his non-identity with a more enlarged policy to meet the requirements of the country can be ascribed neither to want of energy of character, nor to deficiency of sympathy with the province. The disadvantages under which he lay were the system of government he had to administer, and his own imperfect political training and experience, joined to his incapacity to penetrate the intricacies of the problem incident to his position. His doctrine was evidently *quieta non movere*. Mackenzie described him as being desirous of enjoying himself in inactivity, in a condition similar to that of the country he governed. His migrations by water from Toronto to Queenston, and from Queenston to Toronto, were like those of the vicar of Wakefield, from the brown bedroom to the blue, and the blue to the brown.

Had sir Peregrine been wise he could have concealed his mortification; he would have given perfectly free play to criticism, and have profited by what he heard. In some respects he could not but feel its justice, and that it suggested that stern self-examination which men of high ability in such circumstances apply to themselves. Sir Peregrine, however, with all his personal amiability, was one who, in the words of Iago, would not serve God if the devil bade him, and he really condescended to engage in an official duel with Mackenzie.

I have related in a previous volume\* that on the 13th of October, 1824, the monument to the memory of Brock was inaugurated on Queenston heights. It was resolved that the foundation stone should be laid with masonic honours. The ceremonial took place on the 1st of June. Mackenzie lived

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\* [Ante, VIII., p. 237.]

at the time in Queenston and shewed great interest in the ceremony. In the glass bottle usually placed in the cavity of the foundation stone, the first number of the *Colonial Advocate*, with other papers, was enclosed. As Maitland read the proceedings in the public papers, he sent for Mr. Thomas Clark, one of the commissioners appointed to carry on the work, and with passionate vehemence insisted, indeed, gave orders to the effect, that the *Colonial Advocate* should be taken from the glass bottle. The order was complied with. Mackenzie, who was present at this "premature resurrection" of his journal, claimed and obtained it.

In December, 1826, sir Peregrine had another opportunity of shewing his feeling. Mr. Fothergill moved that a small sum, £37 16s., be paid Mr. Mackenzie for his report of the debates, on the consideration that he had rendered a public service by their publication. There was a precedent for such a vote, the *Kingston Chronicle* having received £45 the preceding year. The vote was carried, but the lieutenant-governor removed the amount from the contingencies, and it was not paid.

These proceedings created some sympathy for Mr. Mackenzie, and people bought and read his paper. There was never any hesitation on his part either in the expression of his opinion on a public man, or in the tone in which his censure was couched. Mr. Justice Boulton had acted an unseemly part in court by sustaining his son, at the time solicitor-general.\* Mr. Mackenzie violently denounced the judge's conduct, and appealed to the legislature to address the lieutenant-governor to dismiss from his council the politicians with whom he was surrounded, including the whole of the Boulton race, root and branch.

Parliament met on the 7th of November, 1825. The speech from the throne pointed out the advancement of the public interest, through the change in the policy of the mother country in the admission of wheat grown in British North America. It mentioned, likewise, that the arbitrators appointed

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\* The scene is described in Lindsey's *Life of Mackenzie*, Vol. I., pp. 60-63.

under the imperial statute had awarded a larger proportion of the duties received at Quebec than had hitherto been received. The speech was courteously answered. A message was sent down in accordance with instructions from the colonial office recommending a more liberal provision for the naturalization of foreigners. The act passed in the assembly, but was rejected in the council. In the house, an address was voted to the king in accordance with the resolutions carried on the expediency of excluding judges from the executive council, and of rendering them independent of the crown. Of the acts passed by the legislature, 31 received the assent of the council, while 18 were thrown out. Among the latter was the repeal of the sedition act, under which the proceedings had been taken against Gourlay, the passage in our history so painful to remember.

The estimates laid before the house shewed the expenses for the year to have been £30,353; the revenue, £35,300. In this year, for his vote given in the assembly Mr. Fothergill was dismissed from his position as king's printer. His case was not merely that of the removal of an official from his position. It must also be regarded as typical of the state of the province of that day, shewing the arbitrary rules of government that prevailed, and the determination on the part of the executive to crush all opposition. Mr. Fothergill will always be remembered by book collectors, as having printed some of the early "York almanacks and Royal calendars" of Upper Canada from 1823 to 1826. He was a Yorkshireman of good family and education.\* He brought with him to the province a fair amount of capital, and, as happened to many of the class, he lost what he possessed. In 1821 he had become the proprietor of the *Upper Canada Gazette*, and had been nominated the queen's printer, publishing in connection with it, *The Weekly Register*. He had a seat in the house, and on many occasions had expressed liberal opinions, particularly on the alien bill, having advocated the expediency of granting

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\* "Toronto of Old," p. 209. The doctor tells us a horned owl of Bewick was drawn after a specimen furnished by Fothergill.

letters of naturalization to United States citizens. In the post-office debate he had moved some resolutions, that an account of the revenue should not be withheld from the legislature, and that if any surplus of revenue could be proved, it should be appropriated by the province. He had likewise moved an address on the subject of the grants of land. His comments on the post-office caused his dismissal from the office of king's printer, held at the pleasure of the governor-general. No cause was assigned or warning given him. The step was an adherence to the principle laid down of crushing all opposition to the policy of government-house.

In 1825, Mr. Francis Collins, the official reporter of the legislature since 1820, commenced the publication of the *Canadian Freeman*. He had hitherto received some remuneration for his labours, and on this occasion a sum was granted to him by the vote of the house ; but the virulence of the political articles that the paper contained induced sir Peregrine Maitland to refuse his consent to the payment, and the amount was excised from the estimates. The interference of the lieutenant-governor can be regarded in no other light but as an act of resentment for what Collins had published.

Mr. Mackenzie's paper ceased to appear from the 16th of June to the 18th of December, 1826. It had lasted eleven months, and the embarrassments which the publication had caused would, no doubt, have prevented its re-appearance, when an event took place which brought him into immediate notice, rescued him from his money difficulties, and made him the prominent personage he afterwards became. On the evening of the 8th of June, 1826, his printing office was attacked by a party of young men. The type, lately set, of some columns of the paper was scattered and destroyed, a portion of it was thrown into the bay, and a new cast iron press made useless. The means of bringing out another number of the paper were annihilated, and it was thought that this summary havoc of the printers' utensils would break the power of the obnoxious journalist. No mistake

could have been greater. Persecution invariably causes sympathy for those who suffer from it, and this outrage was the commencement of the popularity subsequently accorded to Mackenzie, and of the influence he obtained that he might have more wisely exercised. What gave additional effect to the event was, that the time selected was an occasion when Mackenzie was absent from the city. By all accounts, not more than fifteen persons were concerned in the attack, and there was no attempt on the part of the spectators to interfere with those who committed the outrage.\*

The lieutenant-governor was absent in his cottage at Niagara at the period of the tumult, but the identification of his secretary with the outrage led to that official's dismissal. The act lost much of its weight, owing to Lyons' appointment not long afterwards to the registrarship of the Niagara district, a lucrative position.

Had a criminal prosecution been instituted, it would not have been possible to escape conviction. It was generally believed that this act of mischief had been deliberately planned, and had received secret support from men in position. It became a question what course was to be taken. Mackenzie placed his case before his friends, and the counsel he received was not to have recourse to criminal prosecution. Those who were implicated were surprised at the expression of public indignation it called forth, and thought it well to leave the city. They endeavoured to mitigate the censure their conduct had called forth, by the issue of placards; but they were without effect on the public mind. Dreading the consequences, they placed their case in the hands of Mr.,

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\* Mr. Lindsey, in his "Life of Mackenzie," p. 79, gives the names of eight young men who were identified. The parties implicated suggest what may be called the official character of the attack. They consist of two sons of Mr. Baby, the inspector-general; Henry Sherwood, clerk of assize, and son of Mr. Justice Sherwood; Samuel Peter Jarvis, son-in-law of chief-justice Powell; Charles Richardson, a student in the office of the attorney-general; Jas. King, a student in the office of the solicitor-general Boulton; Charles Heward, son of the auditor-general of land patents, and Lyons, private secretary of the lieutenant-governor. The only citizen not in official life, carrying on a business, was one Peter Macdougall, known to be the friend of Mr. Baby.



afterwards chief-justice, sir James Macaulay, who wrote a somewhat matter-of-fact letter, offering to pay the damage. His clients, he said, were aware of their responsibility; they had gone openly to attack the office from the personal calumnies the *Advocate* had published, and the offer of pecuniary indemnity was made in accordance with their original intention. There was no desire on their part to withdraw the matter from the consideration of a jury. Such a letter was ill calculated to lead to any settlement. A second was consequently written in much the same spirit, offering a sum of money. There was neither expression of regret nor apology; the very tone of these letters courted rejection, and it was resolved to test the question of damages, and that they should be determined by legal process.

A short time previously there had been a newspaper controversy between Mackenzie and Mr. Macaulay, which had grown out of a dispute in Saint James' church relative to the parish clerk, one Fenton. Mr. Macaulay had published a pamphlet, and Mackenzie had replied to it. Never at any time chary of the language he used, he had not dealt lightly with the writer of the pamphlet and his friends. It was, indeed, said that what had appeared on this occasion was one of the chief prompting motives of the attack upon the printing office.

The trial was held during the year before chief-justice Campbell, who had shortly before replaced chief-justice Powell in October, 1826. Messrs. Bidwell, Stewart, and Small acted for the plaintiffs, Messrs. Macaulay and Hagerman, one of the most powerful advocates of his time, for the defendants. No witnesses were called. Hagerman advanced every argument he could adduce. Nevertheless, a verdict of £625 damages was given. The money and the expenses of the trial, which could not have been slight, were paid by subscription. No list of the subscribers was ever published, as would have been the case if the appeal had been made to popular sentiment. The belief was entertained that the amount was contributed by the official circle of York, and its immediate

dependents. Colonel Fitzgibbon, the deputy adjutant-general, was prominent in obtaining subscriptions, and that in his official position he should have undertaken the matter is suggestive of the influences under which he acted.

The money received by Mr. Mackenzie not only permitted the continuance of his paper, which, from his embarrassments, he probably would have been forced to discontinue, but the violence of the proceeding created for him a sympathy which lasted to the next generation, and which has aided to modify the censure his conduct in many respects deserves, especially after he became a fugitive from the province. It has been stated that this money was in excess of his positive loss, and, from what has been admitted, apparently not without foundation. Even if such be the case, it cannot be recognised either as a legal or as a social principle, that an injury inflicted with such ruffianly wantonness is to be precisely gauged by the schedule value of the property destroyed. The impediment to a business, the personal pain caused by such an outrage, what the French call "*blesser les susceptibilités*," cannot pass unconsidered. It is not impossible as an abstract consideration, that such an event might change the whole direction of a public career. As it turned out, the notoriety given by it to Mackenzie launched him forward to reach one of the most prominent positions in the public life of that day.

Had the event happened in a populous community, it would have been attended with but moderate political significance, but in the narrow sphere of Upper Canadian public life it exerted a remarkable influence. The rioters were the sons of, or connected with, men prominent in the community, and whether or not any direct influence on the youthful culprits had been exercised, the fact was so believed; and the subscription having been taken up among that class to pay the fines imposed, confirmed that view. The conclusion generally accepted was, that punishment had been meted to Mackenzie owing to his opposition to this party, and it was accepted as a certain sign that conduct such as his would be remorselessly

crushed. It seemed a part of the system which had removed the number of the *Advocate* from the foundation stone of Brock's monument ; which had intervened to obtain the stoppage of captain Matthews' pension ; and had caused the dismissal of Fothergill from his office. It may be safely said that there was scarcely a household in Upper Canada where the event was not so related. The election of 1828 shewed how well it was remembered, to the great disadvantage of the York oligarchy. Some of its supporters took the tone that in its way it was a triumph of outraged respectability ; even if it could be so considered, it was the success of an hour, to be dearly atoned for by years of hostile opinion.

## THE WELLAND CANAL.

This, the most important of the Canadian canals, connects lakes Erie and Ontario, and has within the last few years been finally deepened to a navigation of 14 feet, the locks being in length 270 ft. x 45 ft. in width. The enlarged canal is  $26\frac{1}{4}$  miles in length, with a guard lock at lake Erie (where the supply is obtained) and 25 locks of 12 to 14 ft. lift, the mean difference of elevation between the two lakes being 326 ft. 3 in. There are two distinct lines at the northern end, with two distinct entrances, which discharge at Port Dalhousie into lake Ontario. From Allanburg to Port Colborne, 15 miles, the old and enlarged line is followed to lake Erie.

In connection with the canal, there is a descending lock to the river Welland, over which the main line is carried by aqueducts. There is also a branch of 21 miles to the Grand river, the waters of that stream having been the source of supply before the lake Erie level was established, the feeder having been made navigable. A branch also of  $1\frac{3}{4}$  miles from the feeder gives an opening to lake Erie at Port Maitland. The Grand Trunk Railway passes by a tunnel under the canal, so there is no impediment to traffic on either side, and the accidents incident to railways crossing navigable channels are here made impossible.

Nearly three-quarters of a century have passed since its inception until this canal obtained its remarkable and perfect extension.

As early as 1816 a bill was introduced in the legislature for a grant for a survey. It was referred to a committee, but no report was made. In 1819 provision was made for the survey of the Saint Lawrence. In 1821 a commission was appointed to examine into the best means of improving the navigation which, in 1823, reported that the canal should be adapted to admit vessels navigating the lakes. In 1824 an act of incorporation was obtained, of which one of the most active promoters was Mr. William Hamilton Merritt. The canal designed was to admit boats of 40 tons. The capital was \$150,000, in shares of \$50 each. The work was commenced on the 30th of November, 1824: as has since been proved, on means so insufficient as to make it a matter of wonder it was ever completed. Indeed, without the constant intervention of the province, the project must have ended in failure.

We are told "as a proof of how little the subject had attracted public enterprise at the time, not half a dozen gentlemen of capital or influence in the district attended the ceremony." There had been little stock subscribed in Upper Canada. In 1836, twelve years later, the total amount was only \$14,850. It, however, had found some favour in Lower Canada and the United States. In 1825 the charter was amended to raise the stock to \$800,000, upon which the president of the company proceeded to New York, and obtained subscriptions to the amount of \$300,000.

The first theory of the route was to make a connection with the Welland river, then regarded as the virtual connection with lake Erie. It was admitted that the current of the river Niagara was strong, nevertheless that vessels could sail up against it. There are stretches, however, in the neighbourhood of the

village of Fort Erie, where extreme rapidity of current has to be encountered, and it was consequently determined to have recourse to the Grand river, which, while it would furnish the water supply, would also assure a satisfactory and quiet navigation. The locks were to be 100 ft. x 22 ft. width, 7 ft. 6 in. on the sills and 40 in number.

The work was undertaken with the design of making an immediate connection with the Welland river, the Grand river navigation feeder hereafter to be completed. The connection with lake Ontario was to be effected by the navigable Twelve mile creek, which would be followed from the lake to the foot of the higher ground, overcome by the lockage.

In 1826 the company appealed to the house of assembly for assistance, with the understanding that the connection with lake Ontario would be attained in 1827. It was stated that \$100,000 had been subscribed in Canada, an assertion that subsequent facts disclosed to be entirely untrue, and that \$300,000 had been contributed in New York. It was likewise advanced that the directors were desirous that at least a majority of the stockholders should be British subjects, consequently that a limit had been placed on the stock offered in the United States. \$400,000 had been left for the English market. A loan of \$600,000, the first in a long series of such applications, was made; 21 members voted for, 12 opposed the bill. About this period, lord Bathurst, on the part of the British government, agreed to pay one-ninth of the estimated cost, \$65,400, the equivalent being a free toll on the government stores forever. On the ground that the stock had not been sold in the London market, an appeal was again made to the legislature in 1827. No loan was asked, but the government was petitioned to take \$200,000 worth of the stock. Although sustained by the influence of the government, the bill had a very narrow escape of failure, and only passed by a majority of two, the vote being 20 to 18. On the prorogation of parliament sir Peregrine Maitland made special allusion to the work. He felt, he said, the responsibility of giving the aid that had been granted and cheerfully shared it. The conduct of the Upper Canada legislature had its effect on the Lower Canadian house, which took stock to the extent of \$100,000.

In 1828 the company continued to be in great difficulties. The estimate was that \$450,000 was required to finish the work, while the exchequer of the company had merely to rely on prospective payments coming due in shares amounting to \$84,000, and it was doubtful how much of this sum would be paid. It was evident that further application to the Upper Canadian legislature would be without effect. The imperial government was therefore appealed to; the consequence of which was that £50,000 sterling was generously advanced, on security of the tolls and property of the company. No loan was applied for in 1829. The work was, however, carried on with such spirit and energy that on the 30th of November, the anniversary of the commencement of the canal five years previously, two vessels passed between lakes Ontario and Erie, drawing 7½ feet of water, with 21½ feet of beam. The length of the canal was 16½ miles, with 34 ascending locks.

The route of that day from the Niagara river lay through a canal of 9½ miles in length, commencing a quarter of a mile west of the entrance of the Welland



river and ascending by two locks to the level of what was called the "deep cut." The level of the canal was higher than that of lake Erie, as the water supply was obtained from the Grand river, carried by a wooden aqueduct over the Welland river.

In 1830 an application was made to the legislature that the stock should be increased to \$300,000, and a loan of \$100,000 granted. The opposition in the legislature was very great. On one occasion it was moved that the second reading of the bill should be that day three months. The votes were even, 24 for and against. The speaker, afterwards judge McLean, voted in the negative. The bill was carried. Although the connection with lake Erie had been gained by the opening of the route by the Welland river, the communication was regarded as "tardy and circuitous," and it was determined to effect a direct communication with lake Erie. With this view application was again made to both houses of the legislature. On the 14th of March, 1831, the act was passed authorising the receiver-general to issue \$200,000 of the debentures as a further loan. It was much opposed, 25 voting for, 21 against. In 1832 no aid was asked. In 1833 \$30,000 was voted to subscribe for the unsold stock. In 1834 fresh legislation was called for. Representations were made that the means of the company were exhausted, that the canal was \$100,000 in debt, and that \$100,000 was required to put the canal into a complete state for use. During the next session, so unpopular was the proposition of further assistance that the committee to whom the petition was referred made no direct recommendation, but confined themselves to the hope that something might be done to place the canal in a situation beneficial to the public interest. Nevertheless, owing to the energy of the members interested, stock to the amount of \$200,000 was taken, the money necessary for its payment being obtained by debentures; and the stock was raised by enactment to a million of dollars.

An act was also passed that the affairs of the company should be under the control of four directors, three of whom should be named by the assembly. In 1835 there was no demand for money, but the lieutenant-governor, sir John Colborne, laid before the house a despatch from Mr. Spring Rice, the colonial minister, that he could not recommend to the imperial government to cancel the loan of £50,000 sterling, in accordance with the vote of the assembly, which had asked this concession. Messrs. Thorburn, Duncombe, and Mackenzie were the directors appointed.

We are indebted to their labours that the history of the construction of the work has been preserved. There was a feeling of general dissatisfaction regarding the undertaking. On all sides, its completion was regarded as indispensable to the well-being of the province. On the other hand, there was a want of confidence in the management. There had been a continual call for assistance from the public chest. The canal had been constantly represented to be on the eve of completion, but it had never been finished. The committee reported in 1836 that the amount of subscriptions proved that the work had been commenced literally with an empty exchequer. The following concise statement of the property in the canal, as it was held by individuals and the public, was appended to the report :

	£	s.	d.
Loan by Great Britain (provincial currency)..	55,555	11	2
Loan by Upper Canada.....	100,000	0	0
Stock taken by provincial legislature .....	107,500	0	0
Stock taken by Lower Canada.....	25,000	0	0
Stock in England by private individuals....	30,137	10	0
Stock in United States by " " .....	69,625	0	0
Stock in Lower Canada by " " .....	13,825	0	0
Stock in Upper Canada by " " .....	3,712	10	0
Stock in New Brunswick by " " .....	500	0	0
	£405,855	11	2
Advanced this year (1836) by parliament.....	2,000	0	0
Total.....	£407,855	11	2

The cost of the work was set forth at £425,213 3s. 5d., less £100, the balance in hand 30th December, 1835.

In 1836 a select committee, appointed on the petition of the company, recommended that the canal should be made a public work, and the receiver-general should issue debentures for the stock owned. A second report set forth that the amount required to make the canal strictly a public work was £814,319 6s. 2¾d. [*sic.*] Of this amount £200,000 was estimated as necessary to the completion of the canal, the wooden locks to be replaced by stone structures. On the 11th of January, 1837, resolutions on the subject were carried by large majorities. They affirmed the great importance of the canal, the necessity of its completion in a substantial manner, and the substitution of stone locks; £200,000 was voted for this purpose: £117,800 to purchase the stock held by individuals, £25,000 to enable the company to pay its liabilities, and £20,000 to purchase the hydraulic works held by private individuals.

Although it was seen that the canal must eventually be transferred to the province, the legislature at this date did not accept the full responsibility of this policy. The government was, however, authorised to subscribe for \$980,000 additional stock, and the total amount of stock was determined at £597,300 (\$2,389,200).

The troubles of 1837 and 1838 intervened to prevent further legislation, but in 1839 it was voted that the private stock should be purchased, and the canal become the property, and be under the management of the public. The amount of stock held in Canada was £31,712 10s. od. (\$126,850), while the total amount was \$471,200, so that the vote was as just and honest as it was politic. The act did not receive the royal assent until the first session of the union parliament, 5th of July, 1841. The total amount of expenditure prior to the union is given in the annual report of 1867 as \$1,851,427.77.\*

After the union of 1841, the first enlargement of the canal was effected. The proposition was to construct locks in accord with the navigation of the Saint

\* [Annual Report of the Commissioner of Public Works, 1867, p. 482.]

Lawrence, 200 x 45 x 9 ft. on the sills. The money was to be obtained by a guarantee given from the mother country. Lord Sydenham, the governor-general, formed the opinion that the expense would be too great. He considered that the locks as they were then designed, 150 ft. x 26.6 x 10 ft., could sufficiently compete with the Erie canal route. In view of the defence of the province, locks of 200 ft. x 45 ft. x 9 ft. were constructed at the entrance lock at Port Dalhousie, lake Ontario, and also lock No. 2, so that Saint Catharines can be reached by the larger class of propellers; and at the guard locks at Port Colborne, and Port Maitland, to admit such vessels, in case of need, finding refuge in the canal.

In lord Sydenham's day the wonderful traffic of the west was never even surmised. To have foretold it a quarter of a century ago would have appeared an exaggeration which might have been compared to the fabulous narratives of the Arabian nights. It has, nevertheless, surpassed all calculation and expectation. The work of the second enlargement of the canal was begun in 1873. A mixed commission had been appointed in 1870, to examine into the policy of affording greater facility by the Saint Lawrence route. The report recommended the adoption of a lock 270 ft. in length, 45 ft. in width, with 12 ft. of water on the sills. It is difficult to explain why this length was determined, for even now modern criticism affirms that it is insufficient. In 1870 the Boards of Trade both of Chicago and Milwaukee had advocated a depth of 15 ft. and a lock of the length of 300 ft. This view, I am afraid it must be said unfortunately, was not accepted, and it is to be feared that it is not to the advantage of Canada that it was not regarded. The new canal, so constructed to the 12 feet navigation, was filled on the 27th of August, 1881. The first vessel that passed through was the United States steamer "Don. M. Dickinson," in tow of the Canadian tug "Harvey Neelon," on the 15th and 16th of September of that year.

In 1886 the representations of the necessity of deepening the canal to 14 feet were accepted as calling for further enlargement. At the close of the navigation of that year, this work was undertaken and carried on through the winter. On the 30th of May, 1887, the propeller "Newburgh," drawing 14 feet, passed through the newly deepened channel from Port Colborne to Port Dalhousie.\*

During the ten years the enlarged canal has been in operation the traffic has chiefly been that of vessels proceeding to Ogdensburg. The propeller engaged in this trade is 240 feet long, 42 feet beam end, drawing 15 ft. 6 in. of water, carrying 2,100 tons. To pass through the Welland canal, the vessel has to be brought to the required draught of 14 feet, and this lightage costs 2 cents per bushel of grain.

The propeller of 270 feet is still a matter of the future. It is conceived that a steel built vessel and consort, aggregate capacity of 4,500 tons=150,000 bushels, passing with unbroken bulk from lake Superior to Montreal will so reduce the charge of freight as to turn the trade to the Saint Lawrence. To what extent, is the problem to be determined by experience. Moreover, it is held

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\* Consequently the several enlargements to the canal have been as follows:—first lock, 110' x 22' x 7½'; second, 150' x 26 ½' x 8½'; third, 270' x 45' x 12'; fourth, 270' x 45' x 14'.

such vessels will have a fair chance of carrying no small share of the up freight, even with the formidable influence of the Canadian Pacific Railway against them. Until the enlargement of the whole line of the Canadian canals is complete, the advantage of the Welland, as constructed, must remain undeveloped. The cost of the whole line, brought to the depth of 14 feet lowest horizon, will then have reached the immense sum, for a community with the resources of Canada, of fifty-five millions. It is anticipated that in three years this through route will be established.

I trust I may be permitted to say that the first proposal for deepening the canal to its present depth, 14 feet on the sills, proceeded from myself in 1865. "The Canadian Canals," published in Toronto at that date, was the first to suggest and advocate this policy. No recognition has ever been made of the fact. As it has remained unacknowledged, so it has been left without reward. What recompense I may now look for is that which posterity will see fit to give to my name. I feel it a duty to my own reputation to make this claim in the distinct language in which I express it.

In the compilation of this note, I must acknowledge my obligations to the address given by Mr. Monro, engineer in charge of the Soulages canal, on his retirement from the office of president of the society of Canadian engineers, on the 15th of January, 1896.

I know no paper that in so brief a space gives so well digested and able a view of the navigation of the Saint Lawrence, or more accurately advances the modern principles to be observed in the construction of canals, by which cost may be reduced and efficiency obtained.

## CHAPTER II.

During the summer of 1826 sir Peregrine Maitland visited many parts of the province. He was everywhere received with personal respect, and addresses complimentary to him were presented. In his replies, he did not content himself with the acknowledgment of the courtesy he received, but saw fit to cast reflections on the new house of assembly, the first session of which had been held the preceding year. The replies became the subject of comment at the next meeting of the legislature. It was a gratuitous folly to take this course, for the lieutenant-governor in his private life was held in respect: although from the reserve of his character he was without that *bonhomie* which often makes men, even with great faults, popular with those with whom they come in contact. There had been a considerable accession to the population in 1825 and 1826, it having increased 16,000 in the two years, and emigration was in no way diminishing. There was throughout the province great dissatisfaction with the government as it was constituted. The legislative assembly was felt to be restricted in its power, owing to the active control of the policy of the executive being exercised by the legislative council. There was an unquiet spirit passing over the country, an absence of contentment and confidence in the working of the constitution. It was clearly seen that the principle on which it was established was out of harmony with public feeling, but none precisely conceived in what form the remedy could be applied. Undoubtedly much of the unfortunate condition of the province was attributable to its geographical situation. Without a sea-port, the province was denied access to the ocean, and the non-recognition by Lower Canada of the necessity of the improvement of the Saint Lawrence between lakes Saint Louis and Saint Francis



made Upper Canada, in a commercial sense, land-locked. There had been the opportunity for removing that dead weight, presented by the proposed union of 1822 ; but the official class had refused to recognise its importance, as the measure would have been destructive of its influence. It was this opposition to any fundamental change which was weighing down Upper Canada.

The legislature assembled on the 5th of December, 1826. The lieutenant-governor dwelt upon the satisfactory condition of the province and the progress then being made in the public works. He alluded to his recent tour and the prosperous and contented condition of the people, that had come under his observation. The address in reply to the speech called in question the replies he had given to the addresses he had received, as casting reflections upon the members. The lieutenant-governor met the accusation by the declaration that by their remarks they had been wanting in courtesy to himself, and justified his own conduct on the points of which complaints had been made.

Owing to the instructions from the imperial government to sir Peregrine Maitland to introduce a bill by which the rights of British subjects should be conferred upon aliens residing in the province, a bill was introduced in the legislative council, and, on being passed in that house, was sent down to the assembly. From its provisions proving objectionable, it met great opposition. The votes were often equally divided, and on five occasions clauses were negatived by the casting vote of the speaker. The bill required a residence of seven years in the province before taking the oath of naturalization. On the matter being a subject of debate in the imperial house of commons, the under secretary of state, Mr. Horton, volunteered the statement that neither the lieutenant-governor nor the legislative council could be held responsible for the provisions of the bill, for it had been framed according to the express instructions of lord Bathurst, and no discretion had been left as to their character. The impression of lord Bathurst had been, that the clauses as worded would give satisfaction

in the province. It would have been well to have declared under what circumstances this impression had been founded, for the belief must remain that it was communicated from the province itself. The bill finally passed the lower house, but owing to its provisions, was reserved.

In order to prevent the royal assent being given to the measure, a petition against it was numerously signed, and Mr. Randall was commissioned to bear it to England. The application was entertained by lord Goderich, who had succeeded sir George Murray as colonial secretary, and the bill did not receive the royal assent.

In the session of 1827 Mr. Bidwell introduced a bill which passed the assembly, but was not unopposed by the party supporting the government. It extended the status of British subjects to all residents of the province, to possessors of grants of land, and to such as held public offices ; likewise to their descendants. All residents in the province since 1820, with the children of such as were dead, were to enjoy the right of inheritance. The same right was extended to all persons resident in the province on the 1st of March, 1828, who, after seven years' domicile in any part of the king's dominions, had taken the oath of allegiance ; and to all youths of 19, who had dwelt seven years in the province and were entitled to take the oath of allegiance any time within three years. No person of the age of 16 on the 20th of May, 1826, could be debarred from the inheritance of property, owing to being an alien. All claiming to hold property on behalf of nearer kin, being aliens, must have been in actual possession and have made improvement on the land, and the sale of the lot was to be held valid if no adverse claims were put forward.

Sir Peregrine Maitland, in reply to the address informing him of the passage of the bill, made the mistake of telling the house that he must inform the colonial secretary that it was identical with the measure that had been rejected. The house consequently passed a series of eight resolutions, in which the reasons for the rejection of the alien bill in the

former session were given. They constituted virtually a contradiction to the lieutenant-governor in parliamentary language, and were carried by a vote of two to one. The preamble was altered by the legislative council, and that body amended the bill to prevent the repeal of any statute in force. These amendments, after some debate, were accepted in the assembly.

In May, 1827, the proceedings against Mr. Forsyth at Niagara took place, so at variance with all legal practice that it would have been a wonder if the attempt had been made by an ordinary citizen having the faintest notion of law; but that this excess of authority should have been the act of a British governor, and be persevered in against the remonstrances of the legislature, can only be explained by belief in his sense of uncontrolled, irresponsible power.

At this date the principal tavern on the Canadian side at Niagara was kept by William Forsyth. It had a good reputation and was much used, and from being near the falls, was a constant resort, especially in summer during the great heat. A reservation for a road 66 feet in width along the river had been laid off in 1786 for the public convenience. In defiance of law Forsyth, for the private reasons of improving his business, saw fit to enclose with a high fence that portion of the road in front of his hotel, cutting off the view of the falls, and making it a necessity that those visiting them should do so through his premises. Attention was called to this unjustifiable proceeding by the proprietor of another hotel, and persons residing in the neighbourhood were so indignant at the trespass as to petition the government against it. On all sides Forsyth was blamed. His position was utterly untenable. He was, however, in possession, and could be ejected only by legal process. This course did not appear necessary to sir Peregrine Maitland. In summer he lived at Niagara, at his place called "Stamford," and he could not but be aware of the circumstances of the case. An appeal to the courts in a few months would have effected all that was desired, and the expense incurred would have severely punished Mr. For-

syth for the wrong he had committed, and he would have been summarily restrained from occupying ground beyond the limits of his property.

Sir Peregrine Maitland was likewise commander of the forces in Upper Canada, and as he had the power to carry his purpose by force, he determined on availing himself of it without recourse to law. About six weeks after the fence had been erected, in May, captain Phillpotts, the engineer officer of the district, called upon Forsyth and asked for some explanation why he had fenced in the government reserve. Forsyth denied that such was the fact, and claimed that the property was his own. Phillpotts told him such was not the case, and that if this fence were not taken away, he would himself direct its removal. Forsyth, however, asserted his rights of possession and declared he would prosecute any one who interfered with them.

No step being taken by Forsyth in compliance with Phillpotts' demand for the removal of the fence, on the 18th he arrived with a sergeant's party of sappers. He was also attended by the sheriff, but that official took no part in the proceedings; and by Mr. Augustus Jones, the surveyor who had laid off the reserve forty-one years back. The latter measured off the limitation of Forsyth's property. Phillpotts again demanded the removal of the fence, and on Forsyth having refused compliance, the fence across the reserve was taken down, and a blacksmith's shop, which had been erected on the ground, was dismantled and thrown down the bank, Phillpotts having explained that he had acted by order of the commander of the forces, took his departure. Before nightfall the fence was replaced. When the fact was known it was again forcibly removed. Forsyth now gave up the contest, and resolved to appeal to the law for redress for the injury he had suffered.

Forsyth had purchased the lot adjoining his own from William Dickson in 1821, and although, without any right, he had constructed his blacksmith's shop where it stood, his possession of the ground had remained undisputed, and it is

possible that this fact may have misled him. That he was a trespasser is indisputable ; but that he should be expelled by military force was in opposition to every theory of government. What was peculiar in the case was that the lieutenant-governor took these proceedings without consultation with his executive council ; the act was purely his own. So able a lawyer as the attorney-general would have been the last to countenance any so violent and illegal a proceeding.

Forsyth brought suits at law against the sheriff and Phillpotts, and against Phillpotts, for the second removal of the fence by the lieutenant-governor's instructions. They were defended by the attorney-general, under the plea of protecting the rights of the crown. Mr. Robinson took the course that should have been followed in the first instance : he fyled an information against Forsyth, and obtained a verdict. Forsyth consequently failed in his actions.

Forsyth, finding that there was sympathy in his favour, and that the proceedings of sir Peregrine Maitland were generally reprobated, resolved, or the idea was suggested to him, to petition the house of assembly for redress. The petition was considered in the session of 1828, and submitted to a commission of inquiry. Conceiving that some light could be thrown upon the investigation by colonel Coffin, the adjutant-general of militia, and colonel Givins, superintendent of Indian affairs, summonses of attendance before the committee were served upon them. There was no question of the right of the committee in so acting. Indeed, such attendance by men in official positions was a constant occurrence. On the receipt of the summons each of the parties informed the lieutenant-governor of the fact, and at the same time wrote to the chairman of the committee bringing to his attention their official position. Sir Peregrine refused permission for their attendance, assigning as a reason that he had not been made cognizant of the facts on which they were to be examined. Sir Peregrine Maitland was severely blamed for his conduct on this occasion. The condemnation of his proceedings was emphatic in a letter to sir John Colborne after



sir Peregrine had left the country.\* His explanation was entirely rejected as inadmissible. Had sir Peregrine been a trained statesman, he could not have made so petty an explanation. He was misled by the conventionality which had been introduced of informing the lieutenant-governor, when a summons had been served on any crown officer. Such a course was not binding by law; it was a mere courtesy within the power of the legislature to observe or not, as was held expedient.

The house could not patiently submit to the contumacy of the parties who refused to obey its summons. They were arrested by the speaker's warrant and brought to the bar of the house. They pleaded that the lieutenant-governor had refused his sanction for their attendance. Under a resolution of the house they were placed in the common jail, and in charge of the sheriff. The committal took place on the 22nd of March. The lieutenant-governor, however, prorogued the

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\* [Sir George Murray to sir John Colborne, 20th October, 1828, Par. Papers No. 543, 1833.] "From the statement of the lieutenant-governor I am led to infer that there were adequate grounds for inquiry by the house of assembly into the grievance complained of in Mr. Forsyth's petition of having been dispossessed of lands in his occupation, by a military force acting under the express command of the lieutenant-governor, and the chief reason adduced by the lieutenant-governor for not allowing colonels Givins and Coffin to attend the committee, is stated to have been that he did not know the nature of Mr. Forsyth's complaint, nor the facts in regard to which the evidence of the officers was required.

As no direct notification had been made to the lieutenant-governor in a certain technical sense, he did not know the nature of the complaint, yet as he must have inferred that the committee proposed to examine these officers respecting the employment of a military force for ejecting Forsyth from the land, I cannot but consider that sir Peregrine Maitland would have exercised a sounder discretion had he permitted the officers to appear before the assembly; and I regret that he did not accomplish the object he had in view in preventing Forsyth's encroachments, by means of the civil power which is said to have been at hand, rather than by calling in military aid."

Sir Peregrine was in London in June, 1833, when he replied to this paper, having received a copy of it from secretary Stanley. He felt it incumbent on him to vindicate his conduct five years after the despatch had been written, but his answer is weak and irrelevant, and does not in any way meet the illegality of his proceeding.

house on the 25th, so they remained in jail for three days ; arrest by the house of assembly only being in force when it is in session.

The two officials at the time of their arrest made threats of a suit against the speaker for false imprisonment, and, indeed, entered an action for damages ; but the right of the house to imprison for contempt was too well established to be disputed, and they lost their case.

Sir Peregrine Maitland must have felt the false position in which he was placed, for he wrote to the colonial secretary immediately after prorogation asking advice how to act in similar cases. Necessarily, it included the narrative of Forsyth's case. As has been stated, his successor received the despatch in which the dispossession of Forsyth by a military force was the reverse of countenanced.

Sir Peregrine Maitland had been then translated to Nova Scotia. Whether this Forsyth incident had any influence on the change may well be considered. He had great interest with the duke of Wellington, then in power, both from his high character as a soldier, and from the duke's intervention in composing the family differences with the duke of Richmond on Maitland's marriage ; but it could not ward off the censure he received.\*

Almost simultaneously with the close of this dispute, what is known as the "amoval" of Mr. justice Willis took place. One extraordinary feature connected with the event was the brief period in which it was consummated, nine months only having elapsed from Willis' arrival in Canada, on the 17th of September, 1827, to his removal from his judgeship on the

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\* Sir Peregrine Maitland left Canada the succeeding 4th of November, to assume the government of Nova Scotia. Although he held that position until July, 1834, a period of nearly six years, he remained in the province only eleven months, having returned to England in October, 1829. His subsequent career was one of distinction. In 1830 he was appointed lieutenant-general ; in 1834 he obtained the colonelcy of the 76th ; in 1836 he was appointed commander-in-chief of the Madras army. From 1843 to 1846 he was governor-general and commander-in-chief of the Cape of Good Hope, and was made a full general in 1846. He died in 1854.

20th of June, 1828. Willis undoubtedly acted with singular indiscretion, and, to a great extent, by his aggressiveness, brought upon himself the treatment he then received. On the other hand, sir Peregrine Maitland, sustained by the opinions of the law officers of the crown and the report of the executive council, had little hesitation, by his authority as lieutenant-governor, in removing Willis from his seat on the bench; a summary decision, which must have had the merit of conveying to the mind of the lieutenant-governor the sense of full power he had never hesitated to assume. The "amoval" was accepted by the decision of the privy council as not being in excess of the authority claimed; but the appointment of Willis to another judgeship in a colony suggests, that although the act was recognised as legally admissible, it was not regarded with unqualified approval.

Mr. Willis was a chancery barrister of a respectable county family. He had passed through the university with a fair reputation, and was the author of several legal works which obtained for him a good standing in the profession and had led to his enjoyment of a fair professional income. In 1824, in his 32nd year, he had married the lady Mary Lyon, daughter of the earl of Strathmore, 10 years his junior, represented as possessing great personal attractions. Willis himself was also regarded as a brilliant member of society. Their establishment was scarcely equal to the mode of living which an earl's daughter might conceive to be necessary; and when in 1827 the question of creating a court of equity in Upper Canada was under consideration at the colonial office, Willis' name was mentioned for the position. There was at the same time a vacancy in the Upper Canadian bench for a puisne judge of the king's bench, and, through the influence he could command, the position was offered to him, with the expectation that the appointment would not interfere with the proposed court of chancery. Moreover, it was considered that his residence in the province would prove highly useful in making him acquainted with the political institutions, the legal practice,

and also with the social character of those with whom he was to live.

Judge Willis arrived in Canada on the 17th of September, 1827. He was accompanied by lady Mary and her son, an infant; his mother and his sister. Subsequent events established that the marriage had not proved a happy one; a consequence that to some extent may have been attributable to the composition of the household, and the unfortunate results which followed his presence in the province. The fact may be mentioned here as possibly having some influence on Willis' temper. It may explain the unwise exhibition of personal feeling that was one of the primary causes of his trouble, in connection with the unwarrantable position he assumed, in condemning from the bench the legal practice which had been hitherto followed.

Willis on his arrival lost no time in paying his respects to sir Peregrine at Niagara, where his summers were passed. He was cordially received, but on mention being made of the proposed court of equity, the lieutenant-governor had said, "that he had not yet got the court," an expression which had some influence on Willis' mind; for it was afterwards mentioned by him, as shewing the prejudice which had been created against the measure with the lieutenant-governor even at that date.

Everything, however, in York for the time appeared favourable. Willis subsequently related from his diary the hospitalities he had received and extended. He was welcomed by the judiciary and bar with courtesy, and was the recipient of all the social attention that York could offer. His good manners and his brilliant conversation made him apparently everywhere acceptable. Willis seems to have felt that the attention that he and the lady Mary received was only the due recognition of his own merits and talents, and of his wife's rank; and that henceforth he would take a leading position in legal as well as in polite circles. Had Willis been less sanguine and less confident, he would not have failed to have seen that his appointment could not possibly be popular. A stranger

to the province, he had been appointed over the heads of many members of the provincial bar, who had looked forward to the bench as their legitimate aspiration. There was the attorney-general, Mr. Robinson, who had filled the office for many years with unquestioned ability, and had been intrusted with important missions to the home government ; the solicitor-general, Mr. Boulton, and Mr. Hagerman both felt they had been passed over. The feeling could not entirely be concealed, and it was for Willis, by prudence and moderation, to live down the sentiment. But his theories of his own superiority led him to much ill-conceived self-assertion. His opinions were expressed with great positiveness. On the bench, he differed unhesitatingly with his brother judges, and not always in the most courteous manner. He acted with an overweening sense of self-importance highly injurious to himself, and often irritating to those with whom he differed, for it was not always warranted by familiarity with common law, Willis' experience being chiefly in the equity branch.

Willis had attracted attention by a judgment he had given, in which he stated that he had formed his opinions from the merits of the case, unbiassed by political feeling, that he was totally devoid of all such sentiment, and was desirous of rendering impartial justice. There were no special circumstances to call for this remark, and it seemed a covert insinuation that this tone of mind was not a matter of principle with his brother judges. Nothing had suggested this declaration ; on the contrary, there was especially reason why the expression of such a character should have been avoided ; for some of the newspapers had spoken of Willis' arrival as an event to assure pure justice. Moreover the opinion which prevailed as to the utterance of these words was generally, that they were entirely out of place, and what was worse, designed as a reflection on the bench as it was then constituted.

Judge Willis lost no time in submitting to the attorney-general his views on the necessity of establishing a court of equity, only to discover that Mr. Robinson in no way agreed



with his opinions either as to the details, or the immediate necessity of its creation. Willis drew up a memoir on the subject and submitted it to the lieutenant-governor, but the matter made little progress, indeed received no support. Having been informed that the court could be established only by a bill of the legislature, an opinion he did not himself entertain, he drafted a bill which was introduced into the assembly. He attended the debates, and became acquainted with the leading members in opposition to the government, Rolph and Bidwell, with whom he repeatedly held conversations ; a proceeding subsequently made a matter of reproach against him. During the passage of the measure, many of the clauses to which Mr. Willis attached weight were excised, the attorney-general not agreeing with them. Mr. Robinson from his talents had hitherto been the first man in the province, deferred to by the judiciary, the acknowledged head of his party ; and he was never at any time willing to part with any authority he possessed. His fiat was literally all-powerful ; no one thought of contradicting him. At a later period Willis wrote of him, that any project that did not originate with himself experienced little encouragement. In this condition of affairs, intelligence was received from England that the establishment of a court of equity was for the time laid aside ; indeed, it may be said that it did not take place until 1837. Judge Willis expressed his disappointment openly and attributed the change to the English attorney-general, sir James Scarlett, from motives personal to himself.

At this date it became known that the chief-justice, Campbell, who had held the office since the retirement of chief-justice Powell, was desirous of being relieved ; accordingly judge Willis lost no time in applying to be appointed his successor. He had then been in the country but seven months. On the other hand, Mr. Robinson, who had been thirteen years attorney-general, with the highest reputation for the mode in which he had performed the duties, looked upon the position as the legitimate reward for his services. The circumstance affected their social intercourse, and on

several occasions Mr. Willis took the opportunity of differing from the attorney-général.

In social circles there was no particular accord between lady Mary Willis and the wife of the lieutenant-governor, the lady Sarah Maitland. The latter as a duke's daughter and the head of the petty circle of York society, had held undisputed sway, and the least failure to acknowledge this supremacy was considered an impossibility. Whatever the cause, some unpleasantness arose, and it was thought at the time, by those with whom the lieutenant-governor was not popular, that this feminine disaccord was not without its influence in other directions. Willis himself shewed little discretion, and expressed his opinion relative to events concerning which, if he had been wise, he would have been reticent; both as to the constitution of the bench, and the influences which dominated the social life of Upper Canada.

Matters came to a crisis at the assizes held in York, on the 11th of April, 1828, when judge Willis presided at the court for the first time. The case of Francis Collins, an Irish Roman Catholic, a printer by trade, was before the court. His name subsequently attracted much attention in the political world of Upper Canada. On his arrival in the town he had obtained employment on the *Upper Canada Gazette*, published by the king's printer, Dr. Horne, who had edited it from 1817. In 1821, the paper had been divided into two parts, the second being called the *Weekly Gazette*, a chronicle of the news of the day, which included reports of the debates of the assembly. Horne, finding Collins fairly educated, on occasions sent him to report the proceedings. In 1821, the government took offence at some statement that had appeared, and as the paragraph in question was in some respects inaccurate, Dr. Horne was summoned to the bar of the house. He pleaded that the report was made by Collins, not by himself; so after a reproof from the speaker, he was discharged.

In 1825 Collins established the *Canadian Freeman*, a paper in declared opposition to the executive, written with

more violence than judgment, and unfailing in personal abuse of those in prominence. The paper reported the proceedings of the legislature, and allowed no opportunity to pass of assailing the leading officials. Collins wrote with ability and his energy was unflagging, but he was unrestrained by any conventional rules of journalism, and never stopped short before a personal insult. He never hesitated to exaggerate any unpleasant fact, and wrote as if it were a matter of little moment whether or not he gave offence. The existing system he pertinaciously attacked, always with virulence, often without decency.

It had been customary for the legislature to vote him a sum of money for the service he rendered by his report. Whether with the view of making it impossible for him to carry on his paper, or in resentment of his contumacy, the amount voted in 1828 was withheld. Collins told the story in his own way, and in his difficulty appealed to the public. The consequence was that he received greater support, and his paper continued to be issued with regularity.

In one of the protests made by him he had charged the lieutenant-governor with partiality, injustice and fraud in not paying over the money voted by the assembly; and in order to vent his feeling against the solicitor-general, Mr. H. J. Boulton, he offensively arraigned him as having been guilty of murder when he had been second in a duel eleven years previously, on the 12th of July, 1817. Except for the purpose of crushing a mischievous agitation, there could have been no object in instituting the proceeding against Collins in a case of this character. There really was no personal defamation in the complaint that sir Peregrine Maitland had refused to sanction this vote; and Mr. Boulton never shewed that he felt particular remorse for the part he had taken in the duel. As there is some historic interest in this affair owing to the bearing it had on the events of the day, it may be said here that Mr. Samuel Jarvis, the son of captain Jarvis, the secretary to the first lieutenant-governor, Simcoe, then 23 years of age, challenged

a young man, Ridout, son of the surveyor-general. The quarrel which had grown out of some remarks to which the Jarvis family had taken exception, regarding money in a private transaction, had ended in a personal encounter in the street, Ridout having attacked Jarvis. As it was the custom in those days, it was resolved to settle the matter by "going out." We must not judge an event of this kind, which took place in 1817, by the ethics that govern us eighty years later. Ridout was shot dead.\* Jarvis was arrested, tried and declared not guilty. It is easy to be understood that the principal being acquitted, no proceedings were taken against the seconds, Boulton having acted for Jarvis, and Small for Ridout. The whole matter had been forgotten until Collins saw fit to accuse Boulton of murder. No injury had been caused to any parties by Collins' attack. The one object was to exercise restraint on a troublesome writer, and to stop the further appearance of his paper. It was the system pursued under sir Peregrine Maitland from the time of Gourlay, to silence any obstreperous declaimer on public grievances, as best it could be effected. It never found any counterpart in the eight years government of sir John Colborne. The persecution of Mackenzie was the act of the dominant majority of the assembly. That act, as foolish as it was criminal, cannot be brought to the account of the lieutenant-governor. He was powerless to influence the leading actors in that disgraceful proceeding, and any public interference on his part might have been held to be as mischievous as it would have proved ineffectual.

There had been, as stated, extremely strained relations

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\* The account of the duel with all the correspondence is given in the parliamentary document of 1829. "Papers relating to the removal of the Hon. John Walpole Willis, etc." Ridout insisted on fighting at eight paces, from 20 ft. to 22 ft., and fired before the word was given. His bullet passed close to Jarvis' head. It was agreed that Jarvis should then fire. According to those who were present Jarvis fired mechanically, but his shot was disastrous. The impression I have formed is that Jarvis took no aim, and discharged his pistol with no evil intention; hence that the result was accidental. Jarvis also appears to me to have been forced into the duel, from deference to public opinion only.

between judge Willis and the attorney-general, when on the 11th of April, 1828, they took a very decided character owing entirely to the imprudence of Willis. The previous day a postponement had been asked for Collins in his arraignment for libel. On this occasion the bench was occupied by Willis. On his taking his seat the following day, Collins asked permission to speak, which was granted, and he proceeded to accuse the attorney-general of vindictiveness and foul partiality in the discharge of his duty. He had sent his nephews and spies to discover imaginary crimes on his part, and had preferred an indictment of libel against him, while he had allowed the most infamous crimes to pass unnoticed.

At this stage the attorney-general entered, having been informed that Collins was addressing the court. He requested to be informed the object of Collins' address. The judge replied, that if Collins continued, his object would appear.

Collins then proceeded to state that Boulton remained unpunished for the murder committed eleven years before; and he further instanced the non-prosecution by the attorney-general of the rioters who had destroyed Mackenzie's press and type.

The astonishment of the attorney-general was extreme. He was the most powerful personage in the province. His influence was undisputed. With those who looked to him for guidance he was supreme, and he still exercised great weight in the assembly, notwithstanding its liberal majority. The bench deferred to his opinions. Until the day of Willis his authority had been unquestioned. He rose, not entirely with his usual urbane coolness, and expressed the hope that the public business would not be interrupted by such addresses. The defendant had not been arraigned. He had indulged in an attack on the attorney-general, which had no bearing upon his own case. It was not for the attorney-general to be called to account in the matter of his official duties by any defendant. He was ready to account for his conduct to those to whom he was responsible. He trusted the court would not permit the person known as the defendant in libels of the



most disgraceful character, to address the court in this irregular manner for the object of calumniating him.

Whatever were the deficiencies of Collins in questions of good taste and journalism, want of courage could not be added to them. There was a brief pause when he resumed his remarks to say that his object was to compel the attorney-general to do his duty, which he had long neglected in the case of his friends. As Collins considered the present proceedings against him were partial and unjust, he should press the criminal prosecution of Boulton for murder, and the punishment of the rioters who destroyed Mackenzie's property. He trusted his demand would be received with justice and impartiality. Judge Willis, amid the silence of the court, replied : " If the attorney-general has acted as you say, he has very much neglected his duty. Go you before the grand jury, and if you meet with any obstruction or difficulty, I will see that the attorney-general affords you every facility."

Attorney-general Robinson heard the speech with as much surprise as rage. He rose, however, with perfect self-control to deny that he had neglected indictments where no complaint had been preferred. It was not his business to hunt for evidence. He had discharged the duties of crown officer for thirteen years ; it was the first time that failure in his duty had been imputed to him. He had been accustomed to proceed upon information and complaints and not on his own motion to set the law in operation.

Judge Willis was ready with a rejoinder, that what the attorney-general had said proved him to have been uniformly wrong, and that he had neglected his duty. He was the prosecuting officer to prevent the violation of the public peace, and to punish offenders. When a case was brought before him as mentioned by Collins, it was his duty to proceed against such breaches of the law.

The attorney-general, by this time, was carried away by anger. He answered that he knew his duty as well as any judge on the bench ; he had always acted in the way he had mentioned, and in doing so had followed the practice of his

predecessors and should continue so to act so long as he was prosecuting officer.

"Then, sir," said the judge, "if you know your duty, you have neglected it," adding that, as the attorney-general had said he would continue to act as he had done, it would be his duty, as holding a seat on the bench, to make a representation on the subject to his majesty's government.

There can be only one view of judge Willis' conduct, that he was entirely in the wrong, and that he was carried away by personal feelings of irritation against the attorney-general. Collins should have been permitted to address the court on his own case only; and when assailing the attorney-general he should have been stopped, his remarks not being relevant to the case, and the court not being the place where his accusations should have been made. Willis, on the contrary, encouraged Collins to continue and promised to aid his further proceedings. His law was entirely at fault, as attaching to the office of the attorney-general the duty of prosecution otherwise than upon information; while his rebuke in open court was utterly at variance with official courtesy and legal etiquette. In all respects his conduct was most unjustifiable.

The unpopularity of the government influenced public feeling on the side of the judge. There was sympathy with him for his courage in taking so positive a stand against one in the position of the attorney-general, sustained by the whole weight of the government. It was, however, a matter of sentiment more than of any other feeling. Although the leading members of the reform party, Bidwell, Rolph, and Dr. Baldwin, conceived Willis to be right in the matter of law, and felt bound to defend his conduct, there was not by any means a general accord in this view, many entertaining the contrary opinion. The matter did not stop here; for, a few days later, the attorney-general in a case before the court, reiterated his views as to his own duty, upon which Willis retorted that his opinion did not agree with that of the attorney-general, and that he had sent a memoir on the subject to be laid before his majesty's government.

Robinson answered that he was attorney-general to his majesty, and not to judge Willis, and would act as he thought right, even when he differed with the judge; upon which Willis remarked that he was one of his majesty's justices, and, as such, it was his duty to state to the crown officers what their duties were, and for them to perform their duty as directed. He had permitted the discussion only for the interests of the crown, and he was sure his majesty's government would protect him from insult in the exercise of his functions. The attorney-general at once replied that the government also protected its officers in the execution of their duty.

Society became divided on the merits of the quarrel. The whole official world and all connected with, or who hoped to find countenance from it, were loud in the condemnation of the judge. The excitement of the hour in the limited area of York political life was increased by an announcement that there was preparing for publication "A view of the present system of jurisprudence in Upper Canada," by an English barrister, now one of her majesty's justices in this province, with the suggestive words "*Meliora sperans.*" The announcement was regarded as most aggressive. Consequently, a similar book was promised, as if on the side of authority, with the motto "*Deteriora sperans.*" But the motto was really that of the crest of Willis, as he said in his narrative, "and could be learned from the coach-builder 'Houlditch.'"

The proposed publication led to a despatch from sir Peregrine on the 6th of June, 1828, calling attention to it as "neither discreet nor delicate from a judge who had been but a few months on the bench." He expressed his own opinion that the laws of Upper Canada were perfectly satisfactory, as he had himself never received any complaint on the subject. It was a bold assertion on his part. When, however, this opinion arrived in England, the removal of Willis had been determined, and in November he had left Canada. When in England Willis, in alluding to the opinion of the lieutenant-governor, pointed out that a short time previously a youth had been sentenced to death for killing a cow. By Peel's

amendment act in England it would have been an offence punishable by transportation ; and Willis stated that it had been his desire to introduce into the criminal law of Upper Canada the milder provisions that had lately found favour in the jurisprudence of the mother country.

Collins, as instructed by judge Willis, went before the grand jury and brought his charge against Boulton and Small for having been accessories in the duel of 1817. He then similarly deposed against the rioters, in the destruction of the property of Mackenzie. Collins applied that Robert Baldwin should conduct the prosecution against Boulton, who, as solicitor-general, was the colleague of the attorney-general. Consent was obtained. The trial proceeded, and a verdict of acquittal followed. Rolph, who was present as counsel on behalf of Collins, made the request that the prosecution for libel should cease. Judge Willis supported the proposition, and suggested that the trial of the rioters might also be dropped. The proposition was not acceptable to the last named : whether from the feeling that the abandonment of the prosecution, so far as they were concerned, would affect that of Collins, or from confidence in the support behind them, they took high ground. So far as they were interested, they said that they were ready to proceed ; they had never desired to avoid prosecution, and were averse to all compromise. The prosecution had been maliciously instituted and not by the person injured. Moreover, atonement had been made for the injury. They were found guilty. The sentence of judge Willis was that each should be fined five shillings.

In this way this public dispute between the two functionaries was apparently ended ; but, in truth, it proved to be only the beginning of further mischief.

In Collins' case, the attorney-general was also placable. With the consent of the prosecution, the solicitor-general announced that he would not proceed relative to the second true bill found by the grand jury. He stated he would forbear action during the assizes ; that hereafter he would be

governed by the conduct of the defendant as shewn in his newspaper. For the moment then, so far as Collins was concerned, he was left unembarrassed by any public prosecution.

In June the crisis came to an end in the removal of judge Willis from his position by the action of the lieutenant-governor, a proceeding sustained by the attorney-general Robinson. Such was the influence of Mr. Robinson that it may be inferred that this decisive step was in no slight degree suggested by him.

Willis, in this case, cannot be looked upon as a martyr suffering persecution, for his conduct justifies the belief, that his primary motive was the embarrassment of the government, and he conceived that he had found a technical argument to sustain his aggression.

On Willis taking his position on the bench, the court consisted of chief-justice Campbell, Mr. justice Sherwood, and himself. Subsequently, the chief-justice obtained six months leave of absence owing to ill health, with a view to his retirement from the bench, an event which took place in July of the following year. The court was thus left with two judges only. It was soon apparent to the bar that the misunderstanding between judges Sherwood and Willis amounted to positive dislike. They differed constantly in opinion even on important points of law, making the presence of a third judge necessary to decide the points in dispute. So soon as the term was over, Willis tells us that owing to the doubt suggested to his mind as to the legality of the court, he entered into an investigation regarding its constitution. As we read the proceedings the impression is hard to be resisted, that had matters gone on amicably, and Sherwood and Willis acted in harmony, there would have been no disaccord in the social life of York. Moreover, if the expectation of Willis of the establishment of a court of equity had been satisfied, the question of the constitution of the king's bench raised by him would not have been brought into prominence, at least, in the form in which it was presented.



This court had been established in 1794 and the statutes governing it had been framed by chief-justice Osgoode. It had grown to be a practice for two judges, sometimes even for one judge, to sit. Willis in explanation of his compliance with this custom during the Easter term of 1828 said, that he had conceived it had been justified by the constitution, until he had examined the question himself. He had since read the enactment, that the chief-justice and two puisne judges should preside; a section that, never having been repealed, had remained in force for judges sitting in *Banco*, although modifications had been introduced in cases of *Nisi Prius*.

Judge Willis, having adopted this view, addressed the colonial secretary, then Mr. Huskisson, on the subject, and enclosed his unsealed letter to the lieutenant-governor. It was returned to Mr. Willis by Major Hillier, the secretary, with the request to the judge to seal it, and with the information that it would then be forwarded. The letter was, nevertheless, sent back in the same condition by Mr. Willis, who stated that it was his desire to direct the attention of the lieutenant-governor to the subject.

The communication was accordingly forwarded to London by sir Peregrine Maitland, with many disparaging remarks,\* such as the lieutenant-governor permitted himself to make on similar occasions respecting the individuals with whose political views he differed. One charge was that Willis associated with members of the reform party in the house, "who," sir Peregrine said, "were not very respectable in any sense." He dwelt upon the fact that the custom observed in the court, condemned by Willis, had been constantly followed from the earliest days of its constitution in 1794. "In fact, from casualties and circumstances the court had been rarely full." "Mr. Willis had been unable or unwilling to avoid making his proceedings in the civil or criminal court the prominent subject of political discussion, and the pretence of attack from the vilest quarters."

The court met on the 16th of June. After its opening,

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\* [Maitland to Huskisson, 6th June, 1828.]

judge Willis rose and continued to stand while speaking, his address occupying nearly an hour. He expressed the opinion that the court should be constituted by three judges, that the lieutenant-governor had no authority to grant leave of absence to a judge without the approbation of the executive council, that he had, however, found that such leave was always granted by the lieutenant-governor, hence the absence of the chief-justice was illegal. He felt it his duty to declare his opinion that the court was incapable of proceeding to business. He had resolved to decline, under such circumstances, to sit on the bench, but he would remain present to perform any duty he could legally fulfil.

Mr. justice Sherwood evidently came prepared for this declaration. He would not, he said, pronounce any opinion on the constitution of the court. He would, however, follow the practice that had prevailed, and would not hesitate to adjourn it from day to day as occasion required. Judge Willis declared that judge Sherwood could not adjourn a court that did not exist, for the court was without functions, and all such proceedings would be void. Sherwood answered, if that was Willis' opinion, he had a right to his own, and should pursue the course he had indicated.

On the following day, the 17th of June, judge Willis officially notified the lieutenant-governor of the course he had taken, expressing his desire to perform the duties he could legally undertake. Judge Sherwood continued to sit alone. The bar was greatly embarrassed by this divergence of view, especially as Sherwood had not formally expressed his own opinion as to the legality of his proceedings, or the ground on which he had formed them.

Owing to the doubt thus entertained, Dr. Baldwin, Robert Baldwin, and Washburn requested in writing to be favoured with the judges' opinion. Sherwood also replied in writing to the effect that in his view such an opinion would be extra judicial, and that no one but the king's representative had the right to ask for the opinion of a judge, when no cause or motion was before the court. On hearing his reply, Rolph

and the two Baldwins, threw off their gowns declaring that they agreed with judge Willis and would not transact further business in the court.

The executive council without delay considered the conduct of judge Willis. The position taken by him was referred to the attorney-general. His opinion, written with the legal ability which distinguished him throughout his career, was to the effect that Willis' views were untenable.

Judge Sherwood, called upon for his opinion, expressed himself at length in accordance with the attorney-general. The question then arose, whether the lieutenant-governor had the power to remove a judge and appoint a successor. In answer to these points, the attorney-general reported that the appointment of a judge being during pleasure, he could be removed at pleasure; the lieutenant-governor acting on behalf of the king. The reason for such removal had to be submitted to the king; and as the removal of a judge vacated his office, his successor could be appointed.

The next step taken was to address judge Willis, to ask what explanation he had to offer for his proceedings, and what duties he was prepared to undertake. Willis replied that he did not feel at liberty to pronounce an extra judicial opinion; that he could only define these duties on the question coming before him in a judicial form. In consequence of this answer, the executive council no longer hesitated to recommend his removal. A writ to this effect was accordingly issued on the 26th of June; the lieutenant-governor by his secretary, notified Willis of the proceeding, and henceforth he ceased to be a judge. Mr. Hagerman was nominated to the vacant position, subject to the king's pleasure. It may be said here that the appointment was not ratified by the home government, and that Mr. Macaulay was appointed.

Much sympathy was shewn with Willis on this occasion. The proceeding against him was represented as an act of persecution for his independence of spirit, and his failure to be subservient to the dominant faction. The report of his removal from the bench passed throughout the province to

cause the greatest excitement; and, except by the immediate supporters of the government, it was regarded in a spirit most unfavourable to the lieutenant-governor. What gave strength to his cause was, that men so high in public estimation as the Baldwins, father and son, Washburn and Rolph, should sustain the legal position Willis had taken, a circumstance that led to the opinion that the lieutenant-governor had acted not only arbitrarily but illegally. Several addresses were sent to Willis, sympathising with the wrong he had sustained, and a strong feeling prevailed that he had been unjustly and cruelly treated.

This opinion to a great extent has come down to modern times in the cursory notices which have been taken of this event; and partially informed writers in their imperfect narrative have given their support to the course followed by Willis as justifiable in all respects. He has thus obtained the reputation of judicial martyrdom for his incorruptible sense of duty.

No writer who carefully examines the facts can record any such view.\* Indeed it is scarcely possible to retain for his memory any strong feeling of respect, although he claims a certain sympathy from the unfriendliness undoubtedly shewn to him in social life, and from the imperfect welcome given to his professional status. From his first entrance into the small society of York, he was looked upon to some extent as a professional and social intruder; as one placed by fortuitous circumstances in a position to which he had no special claim. The judicial appointment he had received was regarded as the appanage of an Upper Canadian barrister; and it was held to be an act of injustice, that such a nomination should have been made in London. The very circumstance of his wife being a lady of rank was in his disfavour, as it was held to lessen the hitherto undisputed prestige of lady Sarah Maitland. Unfor-

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\* The statement of this case is given in the Parliamentary papers, 1829. Appendix No. 21. "Papers relating to the removal of the Hon. John Walpole Willis, from the office of one of Her Majesty's judges, court of king's bench of Upper Canada."

tunately for himself, Willis may be described as one of those personages frequently met ; as a man of intense vanity, and when this sentiment was wounded, very liable to do what was foolish, for he was by no means deficient in nerve, a quality which is not unfrequently the cause of disgrace to its possessor, when allied with incapacity and unscrupulousness. A stranger to provincial life, he thought everything that did not chime with his preconceived ideas of English habits to be wrong. Further, he had formed the highest ideal of the social standing of his titled wife, as well as of his own professional standing. That he had ability and capacity cannot be disputed ; his deficiency was in that every day virtue, the want of which brings so many into the "wanderings of grief," plain common sense. What is prominent in the dispute is that his law was wrong ; a fact which the masterly summary of the case by the attorney-general, Mr. Robinson, established : a view finally confirmed by the privy council, which sustained the action of the lieutenant-governor ; although his removal from his government had been determined.

It is not possible to reject the impression that Willis acted from personal feelings of antagonism to the lieutenant-governor, the attorney-general, and to the official set as a whole, which had ranged itself against him. We have only to conceive that Willis was right in his law, to understand how entirely he acted in disregard of all prudence and propriety. His refusal to sit as a judge destroyed all confidence in the constitution of the court with regard to the past, and created a disturbance which was more easily called into activity than quieted. His conduct was in reality a solemn protest against the legality of much that had been followed for years, and there was danger that it would strongly affect the most important interests of the province.

If Willis' convictions could have been sustained, it was in his power, without any public demonstration, to have reduced the practice of the court to a satisfactory basis, and gently and unobtrusively to have effected the changes that the law required. If three judges were indispensable in *Banco*, he



could have suggested the simple remedy in the absence of the chief-justice enforced by sickness, of statutory changes of the law, or by the temporary appointment of a substitute. No such course suggested itself to him, and, if we give Willis the full benefit of honesty of conviction, it is impossible to acquit him of the desire to embarrass the government. In the contest he was entirely outgeneralled by the attorney-general, who met the emergency with the courage and ability that distinguished him throughout his career. Indeed, the conduct of Willis, if the administration was to be maintained in the province, left no alternative to the executive but to act with vigour and decision. The occasion for action on their part was not their seeking or in any way their creation. The action which followed was simply the necessary consequence of Willis' own initiative. It was impossible for the government to continue in inaction, and so soon as the remedy was plain to their minds they applied it with determination and despatch.

Mr. Willis, on being informed of his removal, determined at once to proceed to England and lay his case before the colonial office. He does not seem ever to have entertained a doubt of the success of his appeal. On the fact being made public, petitions in his favour were sent from different parts of the province to the king and parliament. He received from the county of Lincoln a requisition to represent that county in parliament. As it became known that only his mother would accompany him to England, a meeting was held at Toronto, when Dr. Baldwin and Mr. John Galt were appointed, with their wives, to assume the protection of lady Mary, her child, and Miss Willis, the sister left in Canada. Mr. Galt was then of high repute in the world of letters in Canada, and as the representative of the Canada land company, being renowned in local histories as the founder of the towns of Guelph and Galt. Mr. Robert Baldwin was appointed lady Mary's solicitor.

Mr. Willis left Toronto on the 11th of July. He could hardly have supposed that sir Peregrine Maitland would not sustain his case by every possible argument against him.

Finally he obtained copies of the despatches upon which he held it due to himself to make a statement in justification, or, as he called it, "a narrative" of his conduct. Willis was a practised writer, and could state whatever he had to say clearly and plainly. This statement is in fact, in some respects, a diary of Willis' life in Toronto. It relates the invitations he accepted, and the names of the parties who dined with him. It was written in order to shew the character of his associations, which had been called in question by the lieutenant-governor. Among the other facts, to establish the antiquated condition of the law, he dwells upon the fact that a man had been sentenced to death for killing a cow; in England an offence punished by transportation. Some time elapsed before any judgment was rendered. From the colonial office the question had been referred to the privy council. Finally the decision was given that Mr. Willis was wrong in the position he had assumed; and that he had erred in the construction of the statute, and, notwithstanding the absence of the chief-justice, should have held the court with judge Sherwood. The privy council did not approve of his summary removal from office without the charges having been regularly communicated, and the opportunity of meeting them given to him, although the tenure of his office had been during pleasure.

This confirmation of the legal constitution of the court gave the highest satisfaction in the province, and quieted the feeling of unrest that had been called forth with regard to it, and settled permanently the question of its legality. Willis' conduct being attributed to an error of judgment, he shortly afterwards was appointed to a judgeship in Demerara, in British Guiana.

Mr. Willis had never entertained any doubts of the success of his appeal, and his disappointment was great when it was not entertained. Indeed, it was to such an extent in his disfavour that his return to Canada was considered inexpedient. He had interest, however, for the matter to be brought up in the house of commons by lord Milton on the 11th of May,

1830. The explanation made by sir George Murray was of a nature to close the debate, and no more was said on the subject.

Lady Mary Willis obtains such mention in the history of those days that her future life cannot remain without notice. With her infant child and her husband's sister she remained in York, while the case was dragging along in England, receiving attention from the families of those who had sustained her husband, and from some of the officers of the garrison. Among them was Mr. Bernard, of the 68th, who from his frequently accompanying her and Miss Willis in their afternoon rides, was generally regarded as that young lady's admirer. On the decision of the privy council being made known, Willis wrote out to his wife to dispose of his house and what property he had in Canada, and join him in London. Lady Mary left York to proceed home, leaving Miss Willis behind to make the final arrangements. At Kingston she was met by Mr. Bernard, who accompanied her to Montreal, where, after living together for some time, they sailed in company for England, lady Mary leaving her child behind with her maid. An action was brought on the 9th of February, 1832, by Willis against captain Bernard ; he had then been promoted to a company ; when a verdict of £1,000 was obtained for the husband. Such was the unhappy conclusion of Willis' career in the province.\*

Although sir Peregrine Maitland's recall had been deter-

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\* Subsequently Willis was nominated to the supreme court of New South Wales, and in 1841 his appointment took the form of resident judge of Port Philip. He proceeded accordingly to Melbourne. Willis is admitted to have been a "man of much legal acumen, of great application, and considerable powers of composition." On the other hand he is described as incapable of controlling his temper ; as easily prejudiced, and he is said to have been a strong partisan in politics ; a meddler in the affairs of others, and not restrained by judicial propriety. In his new position he made himself so obnoxious to the bar, the press and the public, that memorials were sent for his recall. He had, however, his party, who held meetings to sustain him. On the 24th of June, 1843, he received a notification of suspension during the Queen's pleasure. He proceeded to England, and in 1846 judgment was given by the privy council, reversing the order on the ground that he had not been heard. It was recognised that the governor-general and council had power by law to remove Mr. Willis, and that there were

mined, in July, as is shewn by official documents\* it was only on the 14th of August, 1828, that he was appointed to the governorship of Nova Scotia. The *Gazette* of that day also nominated sir John Colborne as lieutenant-governor of Upper Canada. He did not, however, arrive at York until the 3rd of November, 1828, some eleven weeks after his appointment.

The last event of Maitland's government was the trial of Collins for libel of the attorney-general. It took place on the 25th of October, ten days before the lieutenant-governor's departure, a troublesome legacy he bequeathed to his successor.

The truce offered by the attorney-general on the conclusion of the earlier trial of the seconds in the duel of 1817, and of the rioters who took part in the destruction of Mackenzie's printing press, had not been observed by Collins. Mr. Robinson had engaged that his future proceedings for libel would be governed by Collins' own conduct as observable in his newspaper. There is a large class of men who mistake forbearance for weakness. Collins may be included in the number. He continued his attacks with the grossest personalities, and did not confine himself to calling in question the system of government, in all conscience objectionable enough, but he assailed every one who in any way had opposed him. There was one exception, archdeacon Strachan; indeed, his strong will rendered any libel published against him of little consequence. Dr. Scadding tells us† that Collins had a brother with whom the archdeacon dealt, who on one occasion expressed his regret at the continual attacks made upon his customer. The archdeacon, who never lost his sense of Scotch humour, told the brother not to trouble himself, for it was no trouble to him, but he added, "Tell your

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sufficient grounds for his removal. His appointment was consequently revoked. He applied for a pension, but all he could obtain was his pay continued to the day of his re-appointment, amounting to £4850 10. He was never again employed, and died in 1877.

\* [Ante, p. 258.]

† ["Toronto of old," p. 270.]

brother I shall claim a share in his profits." The joke seemed so kindly to Collins that he ceased to attack the utterer.

Not so with the other leading men ; for Collins conceived that he had private grievances to avenge. The allowance made him by the house of assembly for reporting had been stopped by sir Peregrine Maitland. It is also said that on applying for the post of king's printer, when Dr. Horne ceased to hold the position, an office in the bestowal of the lieutenant-governor, he was told that it could be given "to no one but a gentleman;" a fatuous speech, which caused much mischief, for it was never forgotten. As cardinal de Retz has told us, men may forgive injuries, never insults.

It is due to Collins to admit that his offensive writing was not confined to the *Freeman*. The government organs were as little chary in their epithets as he, and as a rule, the writers obtained rewards for their defence of the administrative exclusiveness they justified. Mr. Gurnet, of the *Gore Courier*, the *Kingston Herald* and the *Patriot* of Toronto by no means measured their language. It was a period when the present restraints enforced in journalism were unknown, or at least not regarded. Violence of language and insolence of comment were regarded as evidences of mental power, and, as even may be nowadays occasionally observed, writers would round off a period, as if ignorant of the offensive character of their comments. Upper Canada was passing through a transition period. Uncontrolled vehemence of speech and of procedure was the rule ; and all that can be said in its extenuation is, that the men of that day had a very great deal to learn. The theory has fortunately ceased to prevail, that impudence of assertion, habitual exaggeration of language, and gross vituperation constitute forcible writing. At that date in Upper Canadian politics it was by no means a limited belief, joined with the feeling, in many cases, of the total impatience of all contradiction.

The continual vituperation of Collins induced the attorney-general to attempt to revive one of the old indictments. Judge Sherwood was on the bench. Collins pleaded that his



counsel was not present, and he had not been arraigned. The attorney-general would not admit the plea. The argument, however, that such was the fact prevailed. Although the trial could have been carried over to next session, it could only be effected by Collins furnishing bail ; a proceeding that would greatly have embarrassed him. He therefore elected to be tried at the time. Although the prosecution was vigorously pressed, he was found not guilty, doubtless from the sympathy he commanded.

Collins, however, was never a man to learn. He might have known that this acquittal would lead to prosecution, whenever the opportunity for prosecution offered. In his report of the trial he furnished the occasion, at the very time when those who were opposed to him were chagrined at his escape. He accused the attorney-general of "open, palpable falsehood" and "native malignancy." For this language he was indicted, and preferred to stand his trial, although he might have asked for postponement. Judge Sherwood presided, and is reported to have strained every point against the defendant. He was, however, not in court when the jury returned with a verdict, after five hours' deliberation. Judge Hagerman then presided. The verdict given was, "Guilty of libel on the attorney-general." The clerk read a verdict of "Guilty." The defendant's counsel objected to this record. An argument arose in which the judge decided that such a verdict could not be received ; that if the jury found him guilty of any part of the libel they must return a general verdict of guilty, but they could suggest on what part of the publication their verdict was founded. The jury accordingly retired, and brought in a verdict of guilty ; and in reply to the judge, adhered to the opinion expressed as to the particular part of the libel.

The severe sentence passed upon Collins is a painful scandal in the jurisprudence of that time. He was fined fifty pounds, nearly equal at the present time to \$800, condemned to be imprisoned for 12 calendar months, and to find securities for good behaviour for three years, in modern

currency, himself in \$1600, and two securities each of \$400. The fine was paid by subscription ; for the prosecution, and the sentence had created general indignation. But Collins remained in jail, for he could not find the security asked. His case came up for consideration in the new regime, and it proved one of great difficulty to the new lieutenant-governor.

When sir Peregrine Maitland announced his departure, a public dinner was given to him in York, and he was the recipient of several addresses from the magistrates, the grand jury, and the bar of the London district, also from Kingston, Brockville, and Grimsby. They were written in the usual complimentary language. Although he carried with him the most kindly recollections of the party he had constantly sustained, the general population retained in their memory many actions of his government which do not reflect honour or dignity on his tenure of office, and on the autocratic view of his duties. These traditions have not passed away. He was reserved except with the leading members of the government, with whom he was thrown in intimate official relationship. In private life, his conduct was in all respects unexceptionable, and, though by no means a man of wealth, he was hospitable, and fulfilled the duties of his station with dignity and decorum.

## CHAPTER III.

On November the 4th, 1828, sir John Colborne assumed the government of Upper Canada, which he was to administer for seven years and a few weeks ; until the 24th of January, 1836. It was his fate, during his term of service in the two provinces, to see the death of two sovereigns ; as lieutenant-governor, that of George IV. on the 26th of June, 1830 ; and as commanding the forces, that of William IV. on the 20th of June, 1837. He became administrator of the government on the departure of lord Gosford, in February, 1838. Sir George Murray, in 1828, was colonial secretary ; he was succeeded in November, 1830, by lord Goderich. In 1833, Mr. Stanley, afterwards lord Derby, held the office for about fourteen months until June, 1834, when Mr. Spring Rice came into office to remain until December. Lord Aberdeen followed until April, 1835, when lord Glenelg became colonial secretary for the remainder of Colborne's government. Thus sir John Colborne had to carry on his duties with six different secretaries of the colonies ; a fact which cannot have failed to cause its share of embarrassment, and to have made the government of the province more difficult ; a circumstance, that ought not to be lost sight of in the consideration of his government.

I have given\* the record of his distinguished services as a soldier. He had been appointed lieutenant-governor of Guernsey in 1825, and had been transferred from this position to the more weighty duties he had now undertaken. His record had been of the highest character ; his government of the island had been distinguished by the re-establishment of a decayed public school now known as Elizabeth's college. It had been founded in 1563, on the temporalities of the

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\* [Ante, p. 3.]

suppressed order of gray friars, the Cordeliers. Study of the classics had hitherto been the one consideration. The master, however, on his own discretion, could concede "something for writing, singing, arithmetic and a little play." For two centuries no good result has been achieved, whether from the fault of the system, or the management, cannot be said; but things had come to such a pass, that in 1799 there was only one scholar, and in 1816 there were none. At this date the condition of the school attracted attention, and in the following years the number of boys annually attending ranged from 15 to 29. One of Colborne's earliest acts in 1825 was the appointment of a commission to examine into the condition of the institution. The result was that a new building was commenced the following year, of which the foundation stone was laid by the governor. When it was finished in 1829, Colborne was in Canada. In August of that year, the institution was opened, and a new life of active beneficence commenced. Among the scholarships was one bestowed by him for four years from 1830, of £20 annually to the best classical scholar. In view of the lieutenant-governor's intervention with regard to Upper Canada college, hereafter to be noticed, these facts call for record in the narrative of his government in Upper Canada.

The elections had taken place during the summer of 1828, when public feeling was generally directed against the executive. The prosecutions for libel appeared to the mass of the people as vindictive as they were unwise. They were regarded as a desire to silence a press which stated unpleasant truths: a sentiment the more deeply felt from the outrage of the destruction of the type of Mackenzie's paper. This act was regarded by no few, as having been countenanced by the families of the young men who took part in it; without doubt it was the most wanton act of folly of that time. The uncompromising pretensions of the legislative council, the irresponsible character of the executive, the arbitrariness of sir Peregrine Maitland, who, from personal feeling, had drawn his pen through payments voted by the legislature, the persecu-

tion of captain Matthews: all these events had created a spirit of dissatisfaction and disquiet throughout the community. The proceedings against judge Willis, imperfectly understood by the mass of the population, were likewise looked upon as a grievous wrong, and in the minds of many gave ground for the belief that justice was not obtainable from judges dependent for their position upon the lieutenant-governor, and the executive council that obeyed his mandates. The consequence might have been foreseen. A house of assembly had been elected strongly in opposition to the existing system, animated by a determination to attain a better system of government and greater security for men in public life. It was further animated by the desire, that the functions of the house should no longer be cramped and thwarted by the power exercised by the legislative council as it was constituted.

One of the first serious duties with which Colborne had to deal was a petition, numerously signed, asking for the release of Collins. The case was one of great difficulty, from the trial and sentence being of few days' date. Colborne recognised the advantages obtainable from a free and well-conducted press; at the same time he saw the danger of interfering with the verdicts of juries and the opinions of judges, unless on the ground of illegality in the proceedings. He replied that he would inquire into the case, and if his interposition were justified, the fact would be communicated to the party interested.

A few days later, three weeks after the lieutenant-governor's arrival on the 26th of November, a petition was sent to him by Collins, appealing for mercy; pointing out that owing to his imprisonment his business was being ruined, and that on it he depended for the support of his family. Three weeks passed before any reply was received, when it was to the effect that the prayer could not be complied with; but that on the expiration of the specified time of imprisonment, any application he might make would be considered. The term of imprisonment was two months.



Writers have blamed sir John Colborne for having given this decision. It cannot be said that they fairly consider his position. He had been but three weeks in office, and the prosecution had taken place only ten days before his arrival; moreover, he could personally be little acquainted with the politics of the province. He must have been greatly dependent on his council for the information he would receive, and he could not have been unacquainted with the difficulties which had attended the closing years of sir Peregrine Maitland's government. It was an impossibility for him to have formed an independent view of the case at this time. It is true that the libel upon the attorney-general was a petty matter. It had inflicted no injury upon that official, and he would stand higher in history if he had passed it by in contempt. There could have been no personal feeling in the matter, for Mr. Robinson must have been supremely indifferent to what Mr. Collins thought of him.

The characteristic of the chief-justice, as he subsequently became, was that, whatever his ability, his legal knowledge, and his high personal character, he always remained impatient of contradiction. In political life, he was surrounded by those with whom for the most part his word was law. The one exception, possibly, was archdeacon Strachan, and he would have been the last to interfere between the strong hand of government and a libeller of men in authority, however much he despised abuse of himself. Although we cannot know the arguments advanced by the *entourage* of sir John Colborne, we can conceive what they must have been. It will be seen that the legislature subsequently petitioned the king for Collins' release, and the prayer was granted. Although the influence exercised by Colborne is unknown, it is quite possible it was not inactive, and it is a fair surmise that this petition received his support.

The new parliament, the first of the tenth session, met on the 8th of January, 1829. Among those elected was Mr. Mackenzie, who was returned for York. He had been opposed by Mr. Small, who had been his solicitor in the suit

for damages for the destruction of his property. The house had been dissolved on the 24th of July, and in anticipation of the election he had issued his address the previous December. He was strongly opposed, but by his energy and popularity he succeeded.

In the election many prominent members of the old house had failed to secure their return, even the attorney-general, Mr. Robinson, had been elected for York only by a majority of 17. The brother of the solicitor-general had been defeated. The opponents of the government included Dr. Baldwin, Mr. Mackenzie, Mr. Ketchum and Mr. Fothergill, with other liberals of prominence in their own localities, now forgotten. Mr. Bidwell was chosen speaker by a majority of three votes. From the commencement it was seen that the majority was strongly in favour of a more liberal system, and firm in its opposition to the executive council as established. The address carried by a vote of 37 to 1, claimed that the house should be recognised as the responsible adviser of the crown, and protested against the injurious policy hitherto followed. His excellency, it proceeded, was unhappily surrounded by the same advisers who had so deeply wounded the feelings and injured the best interests of the country. Under his auspices, in the interval of necessary change, the anxious belief was expressed that the administration of justice would rise above suspicion ; the wishes and interests of the people be properly respected ; and the revenues of the colony be devoted to public improvement ; and provision made with economy for the public service.

Such an address must have been embarrassing to Colborne. His attention had been drawn to the manner in which the legislative council was composed by a despatch of the colonial secretary, sir George Murray, and within a month of this date he expressed the opinion\* that the province had reason to complain of its constitution. It was composed, he said, of 17 members, only 15 of whom attended ; of this number, six

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\* Colborne to Murray, 16th February, 1829. [Ante, IX., p. 424.] The date of this despatch is there incorrectly given as the 16th of July.

constituted the executive council, while four of the number were office-holders. As Colborne himself had stated, the legislative council was the mere echo of the decision made by its members, who constituted the executive council. Unlike the same body of Lower Canada, it represented no distinct nationality unrecognised in the assembly; its power lay in making impossible any policy which was looked upon with disfavour by the dominant authorities; so that, so long as the majority could harmonise with the views of the lieutenant-governor, the executive remained unassailable. At this date it is generally admitted, that no public man of authority in the imperial government was in favour of granting the concession of an executive, dependent upon the vote of the house of assembly for its term of office. Lord Durham was the first to see, that in this principle lay the solution of the problem of provincial government. Consequently, a colonial governor-general had no discretion as to the admission of any such pretension. The despatch of Colborne above named is a proof that he failed to approve of the system as he found it; that he understood the only course open to him was to accept the situation as presented by his official advisers, and to act as he was best able in circumstances that he could not control.

The reply given by Colborne may be taken as shewing that he felt the perplexity of the situation. It was to the effect, that it was less difficult to discover the traces of political dissensions and local jealousies, than to efface them.

Early in the session, the case of Collins was taken into consideration, and referred to a committee. The attorney-general was examined, with the judges who gave the sentence. Sherwood and Hagerman appeared, but declined to answer the questions submitted to them. The result was an address to the lieutenant-governor, asking for the remission of the sentence. The reply of Colborne was courtesy itself. It was his anxious wish, he answered, to render service to the province by concurring with the legislature in everything that could promote its peace, prosperity

and happiness, and he regretted exceedingly that the house of assembly should have made an application with which as he thought, his obligation to support the laws forbade him to comply. His message included a letter from judge Sherwood to the private secretary, vindicating the sentence that had been enforced. With some general observations the letter justified the right of publication of fair and candid opinions on the acts of the government, but affirmed that, when a writer adopts a course of "public calumny and open abuse," and attacks the law officers of the crown in the discharge of their duty, his punishment should be adequate to prevent a recurrence of the offence. Both he and judge Hagerman had deemed the sentence to be proper and necessary, and such as the case required.

There is reason to believe that the attorney-general was inexorable. He had but to utter his forgiveness of the abusive language of Collins, and the matter would have ended. But such was not his feeling. Sustained by the decision of the executive council, the judge's opinion being in accord with it, would naturally prevail. On the other hand, the lieutenant-governor had been but two months in the country, and would hesitate to come into collision with his council on this point. One fact is certain, that during sir John Colborne's seven years' government, there were no prosecutions for libel, no persecution entered into similar to that of Gourlay, Matthews, Forsyth and Fothergill. With the two political parties feeling was highly strung. Few men in public life knew the limit of legitimate partisanship. In this case, because the lieutenant-governor failed to meet the views of the ultra supporters of Mr. Collins, he was burned in effigy at Hamilton.

Any one who reads Collins' productions in his paper can have little inclination to consider him a martyr, even with the feeling which is irresistible, that the sentence was harsh and unjustifiable; indeed, one not to be regarded as creditable to the judge who pronounced it. He was a man who considered abuse to be argument, and his violent, passionate

invective suggests he was ignorant that by its use he was a sinner against decency. He could declaim against men with unrestrained vehemence, but here his power ceased. Those who read his writings at this day are astonished at their unrestrained audacity.

The house considered that the answer of the lieutenant-governor conveyed a censure on the address which asked for the remission of Collins' sentence. Accordingly, those sustaining it passed a resolution, that they had not merited the imputation conveyed in the message, and that their request was not inconsistent with the support of law, and their duty to society. They did not let the subject drop. On the 12th of March, a week before the adjournment of the house, an address was voted to the king, asking the royal clemency in the remission of the residue of the punishment. The petition was favourably received. As I have suggested, the influence of sir John Colborne may have been exercised in the direction of mercy. Collins became a free man, and carried on his paper as of old. Indeed, he had continued to edit it from the jail, and the sympathy given to him had maintained its circulation. There was, however, no longer apparent in its columns the old reckless denunciation of those he opposed. His sentence had taught him prudence, if it had not broken his spirit. Possibly the influence was compound in both directions, and he was wise enough to avoid his former excesses. It may be said here that he died on the 2nd of September, 1834, from cholera, and thus was not heard of in the events of 1837.

An event took place after the legislature had sat three weeks, which shews the petty spirit of that day in public affairs. A partisan of the government, Mr. Gurnet, who wrote in his paper, the *Gore Gazette*, in little less measured language than Collins, had taken upon himself to affirm that a conspiracy had been formed to release Collins by force. If the fact were believed, all that was required was the adoption of precautions against the attempt. The house, however, summoned Gurnet to the bar, to give the



information he possessed. He refused to answer, on the ground that he might implicate himself. Mr., afterwards sir Allan McNab, then a young man, a struggling barrister; and the solicitor-general, Mr. H. J. Boulton, were summoned by the house. Both shewed their ignorance of parliamentary law, and of the history of representative institutions, by refusing to answer when they appeared before the committee. McNab was sent to jail for breach of privilege; after remaining there for ten days, he appealed by letter to the house, and was released on the 3rd of March.

Boulton's insolence entailed upon him the reproof of the speaker. He was solicitor-general, and lawyer enough to see the folly he had committed. He had received no support in his contumacy from the lieutenant-governor, and the clique with whom he acted were impotent to protect him. He was left to his fate and had to make what exertion he was able, to avoid the consequence of his misconduct. Placed at the bar, on the motion that he had violated the privileges of the house, he completely changed his tone and humbly pleaded that he had in no way designed to act disrespectfully to the committee. At the same time he expressed his respect for the privileges of the house. He was now ready, he said, to answer such queries as would be made. The house, mollified by this palinodia, accepted the motion that he should be admonished by the speaker, and discharged, on payment of the fees of the sergeant-at-arms.

There was much in the decision to be unpalatable to the solicitor-general. He had long been the declared enemy of the Bidwell family. He had exerted himself with passionate virulence to obtain the expulsion of the elder Bidwell from the house, and to promote the legislation by which he and aliens of his class should forever be excluded. His influence had been exerted to the utmost against the return of the present speaker, and at the late election, he had done all that was possible to turn the vote of the constituency against him. The vindictive, overbearing character

of his own public life led Boulton to expect little mercy from others, or that he would receive consideration different from that he would himself have granted. Such, however, was not to be. On the 20th of February, the admonition was given, in a tone of dignity and forbearance; it forms a pleasing contrast to the violence and passion of those days. The right of parliament was fully vindicated, and Boulton himself was made to feel that he had transgressed on an important principle of parliamentary law. The admonition given, he was then discharged.\*

In the new house Mr. Mackenzie rose into rapid prominence. His industry all his life was untiring, and he attracted attention by his frequent motions for information.

\* I deem it proper to give the address of Mr. Bidwell on this occasion as worthy in every respect a place in Canadian history :

"It gives me pain to address you in language of reproof.

"The privileges of the House of Assembly that you have questioned have been granted by the constitution and for some useful purpose . . .

"It is to the spirit and firmness with which the House of Commons in England has on all occasions asserted and maintained its privileges against the King and the House of Lords, and when necessary against popular prejudice, that our parent country owes her liberties, and the best principles of her Constitution. They must be as necessary for the protection of the subject and the preservation of liberty in this Province as in England.

"By every member of the . . . community a ready and cheerful respect should be shown towards the House of Assembly, who represent the people of the Province, whom the constitution has entrusted with important privileges for the benefit of their constituents, and who are amenable to them for all that they do. But it might in a peculiar degree have been expected of you, whose duty it is to enforce submission to the laws and respect for the institutions of the country. . . . It is important . . . that by its proceedings against you a warning should be given, before others are influenced by your sentiments and conduct to dispute an authority which the House is bound to vindicate and enforce. . . . It gives me great satisfaction, that its duty does not compel or its inclinations induce it in your case to go any farther than is requisite to attain this object; and finding from your answers that you are now disposed to treat its privileges with just and becoming respect, and defer your own private opinion to the judgment of that body whose constitutional right it is to decide upon its own privileges, it is willing to dismiss you with no other punishment than this admonition from its speaker. . . . It is by the order and in the name of the House that I thus admonish you and direct that the Sergeant-at-arms do now discharge you from custody."

The post-office was an object of his inquiry, for the belief of the time was that it was a source of income. Modern investigation has shewn, as before stated, that nothing was charged against Canada for ocean service, and that if any surplus was received it arose in a large amount from the postage paid for the imperial public service, which was collected simply in the interest of the post-office balance sheet. In modern times in the dominion all such official correspondence is free. The rates of postage, however, were exceedingly high, and the service was imperfectly performed. Mackenzie earnestly advocated the transfer of the post-office to the province; but he was not the first who made this demand. The privileges of the house also claimed his attention. He carried a motion of 27 to 5 that the chief clerk, with the approbation of the speaker, should appoint the subordinate officers, with the exception of the sergeant-at-arms. The conduct of many of the returning officers, likewise through his intervention, became matters of inquiry, many having made questionable charges against the candidates for their own services, and for stationery and printing.

Hitherto the chaplain of the house had been a member of the church of England. Mackenzie's restlessness led him to attack this arrangement, and by a majority of 4, he carried a measure that the clergy of the town should be invited in turn to officiate, an arrangement which few will commend. He also carried a bill repealing the clause in the statute, which determined the salary to be paid to the chaplain, but it was thrown out by the legislative council. This continued agitation seriously interfered with his usefulness. No one ever accused Mackenzie of any want of disinterestedness; indeed, in the session he called upon members to pay the postage of their letters in certain cases; a motion in which he failed. The difficulty with him was his constant interference with every public matter deemed by him to be a grievance, without due consideration of the consequences of his action, and with very imperfect views for a wise, well ordained future. The government was

entirely independent of the popular vote in the matter of money grants. By the system then followed, the executive being unrepresented in the assembly, any member could propose a vote for a certain expenditure ; for a public work ; or for any purpose whatever. If the executive were unfavourable, whatever the vote, the matter remained as it left the house without further attention. In some cases, as has been remarked, the lieutenant-governor drew his pen through appropriations he considered to be objectionable, without assigning his reasons.

In July, 1829, sir William Campbell, who had been knighted when in England, retired from the position of chief-justice. Mr. Robinson, the attorney-general, was appointed to the office to hold it until his death in 1863. In the last year of his life, however, he had been named the presiding judge of the court of appeal. On the commencement of the session of 1830, he was appointed speaker to the legislative council, a duty he fulfilled until the union of the provinces in 1841, the measure against which, to the last, he exercised all his influence.

The elevation of Mr. Robinson to the bench left the town of York unrepresented. Mr. Robert Baldwin accordingly came forward as a candidate. At the last election, in connection with Mr. J. E. Small, he had contested the county of York, but Mr. Mackenzie and Mr. Ketchum had been elected. His opponent on the occasion was the same Mr. Small, but Baldwin was returned. The election was, however, declared void on petition, the writ having been issued through some oversight by the lieutenant-governor in place of the speaker. A second writ was therefore issued, when sheriff Jarvis was a candidate. Baldwin, then in his 26th year, was, however, returned, to take his seat in the session of 1830. During the session Mr. Baldwin was more observant than active in debate, and spoke little ; a contrast to the intense activity of Mr. Mackenzie. It may be remarked that this was the only session in which Mr. Baldwin had a seat in parliament until the session of 1835, for though a candidate at the election of

1831, he was defeated by sheriff Jarvis in the same constituency.

The session of 1830 began on the 11th of January. The lieutenant-governor announced that there was a surplus in the treasury after meeting the expenses of the civil list. The house in its address reiterated its dissatisfaction with the mode in which the government was constituted. It represented unabated solicitude regarding the administration of public justice, and expressed the conviction that the executive council, from the policy pursued under the former lieutenant-governor, had lost the confidence of the country; and that the predominant feeling was that their removal from office was desirable. The want of power to effect this result was felt on all sides. Mr. Mackenzie's proposition was to send a commissioner to the home government to ask the remedy at its hands, in the case of a ministry being retained in office by the favour of the lieutenant-governor. Sir John Colborne returned an answer to the address, which cannot be quoted as a model of courtesy. This may be said in its favour, that it was evidently written in his own words, and not at the inspiration of his executive; and they betoken the embarrassment with which he read the complaint. His words were: "Gentlemen of the house of assembly, I return you my thanks for your address," a formula that he followed also with the legislative council. The little accord between the two houses is shewn by the fact that 27 bills, passed in the assembly, were rejected by the council, and that the several bills sent back to the assembly from the council, obtained no consideration in that house, owing to the amendments which had been introduced. Some acts of importance were passed, such as the settlement of the question of war losses, which had been adjourned for fifteen years; provision for the maintenance of roads; and an act giving assistance to the Welland canal, which has previously been mentioned.\*

George IV. died on the 26th of June, 1830. On the news reaching Upper Canada, a new election took place. In the

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\* [Ante, p. 284.]



interim, owing to the elevation of chief-justice Robinson, Mr. H. J. Boulton had succeeded him as attorney-general. The new solicitor-general was Mr. Hagerman. On the removal of judge Willis he had been appointed to the vacancy, subject to the approval of the home government. He was not confirmed in his position, and Mr. Macaulay had been nominated to it. Mr. Hagerman had, therefore, again taken his place at the bar. Both law officers were successful in obtaining seats at the ensuing election.

The complexion of the assembly was early seen at its meeting on the 7th of January, when Mr. Archibald McLean was elected speaker by a vote of 26 against 14. The house then consisted of 46 members. It may be said that Mr. McLean was the first native-born Canadian that held the office of speaker of Upper Canada. There were many changes in the constitution of the house. Neither of the Baldwins had found a seat. Rolph had been defeated; Bidwell, Perry and Mackenzie, however, had been re-elected. Mr. McNab, afterwards sir Allan, was for the first time returned as one of the members for Wentworth; a success that in after years was affiliated to his conduct towards the previous house of assembly. His refusal to answer the question had been accepted by those supporting the government as a mark of his spirit and independence.

The explanation of this change in public feeling is not an easy matter. The election of 1836, on the appeal of sir Francis Bond Head, which resulted in the support of the government, has been attributed to the methodist body directed by Dr. Ryerson, and the slight majority obtained by sir Charles Metcalf in 1843 is attributed to the same influence. The *Christian Guardian*, the organ of the methodists, was established at Toronto by Dr. Ryerson, in 1829, the first number having been issued on the 13th of November. The influence exercised by this paper on this occasion was on the side of Mackenzie. The U. E. loyalists may be considered to have opposed the party with which he acted; for many feared that his extreme views threatened

important national changes. This sentiment must have had great weight, for it is not possible to ascribe the change in the composition of the house to any direct intervention of the executive possessing ample resources of money. Patronage it undoubtedly retained, and none but its friends could in this respect obtain the least recognition; but there were certainly no funds at the command of the government to carry the elections. The result must principally be attributed to that change of opinion which occurs in every community; to a great extent in this case called forth by the vehemence of many of the prominent members of the former house, and by their continual unwise, impracticable agitation, that men of the stamp of Robert Baldwin and Bidwell were powerless to restrain.

I conceive that the change in the construction of the house truly represented the change in public opinion. Moreover, there had been a great increase of the population by immigration, and the voters' list had been considerably enlarged, to what extent it cannot be precisely stated.\* The new comers, however, were not likely to be impressed by the legislative discontent of 1830. The patronage possessed by the government must, likewise, have had its influence, for there was little hope of a successful career in any way dependent on the government, unless sustained by its countenance. There was a compact resistance to innovation; and as this party was sustained by each lieutenant-governor who had primarily in view that matters should go on as they were, it necessarily had great strength, especially when this support was given with judgment and moderation. The mistake made by sir Peregrine Maitland was that he had been aggressive in his endeavour to silence opposition. The record of his administration contains the narrative of these mistakes, and, though popular with his *entourage*, outside of this circle he was held in but indifferent esteem.

Sir John Colborne had avoided this error. Only a few months after his arrival, he had, in 1829, shewn sympathy

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\* [The census of 1827 gave 177,174, the census of 1830, 213,156.]

with the community by his foundation of Upper Canada college. His intervention had not been a matter of promise, delay and disappointment, but had been one of fact, for the college had been opened previous to the election of the 8th of January, 1830, with a staff of masters, not picked up at random, but selected for their attainments and character. The endowment was a proof of his sympathy with the requirements of the country, and had been recorded in every newspaper. Colborne had thus shewn he had views of his own; and, as his despatch on the legislative council suggested, he did not conceive the government of the province to be the perfect institution many claimed it to be, so long as it maintained the clique who held power in the possession of office. He had evinced his respect for popular opinion, even in cases where he had apparently run counter to it. In the case of Collins, when he had declined to grant the remission of the sentence, he had sent with his message the explanation of the judge who tried the case as justification of his conduct. The official world, by no means feeling secure in their tenure of office, had recognised the necessity of every exertion being made to retain its position, and undoubtedly great efforts had been made to turn the tide in the constituencies in their favour.

The consequence was the election of a legislature which no longer sustained the opinions which in the former house had been so ostentatiously paraded, with little sagacity and with scarcely any hope of success. The lieutenant-governor was unable, even if he had so desired, to take any action in accord with the vote of the assembly that no confidence was felt in the executive. No charge of malfeasance had been specified against its members, and all that was urged in general terms was their abuse of their position. His instructions admitted the application of no active remedy. There is a great deal said of the advocacy of responsible government being prominent in those days; and it was affiliated to this and that public man. But it is difficult to shew that it was ever distinctly held out as a practical measure until so pointed out by lord Durham's report. Out of the circle of official patronage the

feeling was one of strong dissatisfaction, that a few men could combine to obtain the control of public affairs, by the will of the lieutenant-governor only, and not as a party representing public opinion ; who in defiance of the sentiment of the legislature should hold office, and carry on the government with the high, unbending hand of irresponsible power. No one, however, suggested the remedy. Although it was claimed that the executive council should be responsible to the vote of the house, it is not easy to find that it was anywhere laid down in what manner this control should be exercised and practically enforced.

The house that met in 1831, and remained in power during the four years only added to the complications of the situation. It may be described as but indifferently constituted, and the most remorseless in the endeavour to crush all opposition to the opinions of the majority, that ever sat in Upper Canada. There was no middle party. Members had to follow the boisterous lead of Boulton and Hagerman, both extreme opponents of all liberal views and theories, or to accept the impracticable views of Mackenzie. One sensible measure that passed was the grant of the annual civil list of £6,500, to pay the stipends of the lieutenant-governor, the three judges, the executive council and the law officers of the crown ; the imperial government abandoning to the vote of the assembly a revenue amounting to £11,000 which it had hitherto controlled. Mr. Bidwell, seconded by Mr. Perry, moved that the salaries thus granted should not be paid until the holders of office had been nominated to exercise their functions during good behaviour, and subject to the revocation of their appointment on a joint address of the legislative council and the house of assembly. Further, that such judges should be incompetent to sit, either in the executive or legislative council. The vote was lost by 17 to 25. Mr. Mackenzie then moved that no priest, minister or ecclesiastic should be eligible to sit in the executive council, which also was lost by a vote of 16 against 24. This motion was directed against the Roman catholic bishop, McDonell, and arch-deacon Strachan.

The minority refused its assent to the act granting the civil list, and, in ignorance of parliamentary law and custom, the extreme members who opposed it called it the "everlasting salary bill." An attempt was afterwards made to explain away this opposition, which at least was a feeling in the right direction. An amendment was proposed to the address, and if Mr. Mackenzie had been wise, he would have let sleep the question of the chaplain he had brought up in the house. It was Mackenzie's misfortune, with the ability he possessed, and even admitting the honesty of his intentions at this period, to be deficient in political sagacity and to be ever in search of notoriety. No greater mistake in life could have been made than the rebellion. The world does not judge Mackenzie with extreme severity in this matter, for the blundering neglect of sir Francis Head even encouraged him to proceed in his purpose. It has also recognised that personally he had been persecuted with a harshness equal to its perverse folly ; moreover, it cannot be denied that he represented the extreme discontent felt at the constitution of the government and its self-asserting, persecuting spirit, as represented by its leading executive officers. The blame universally cast upon him was for his proceedings, after, as a fugitive, he had left the country, in organising and encouraging the remorseless raids by the brigands who troubled the province for months, without the least expectation of any results but those of piracy and murder.

In this case, although certain of defeat, he renewed his motion relative to the chaplaincy. The house had scarcely proceeded to business, before he claimed the right of the house to nominate its chaplain. A large majority voted that the question be not put. So pointed a rejection of the proposition did not satisfy him. He accordingly moved that the various ministers in Toronto should in turn be requested to say prayers. Setting aside the objectionable character of such an arrangement, and of its want of good sense, after what had passed it was simply a direct challenge to the sentiment that the house had expressed. It was on this occasion that



Mr. H. J. Boulton shewed his unfitness for the position of leader. His natural insolence was not redeemed by any under-current of geniality. His abilities were less than moderate, his attainments of the narrowest description, his legal knowledge confined to technicalities. No greater contrast to him could have been produced than the conduct of chief-justice Robinson, when attorney-general, sitting in the house. If his sense of power was unbending, and his capacity of bearing contradiction limited, he was always the perfection of courtesy. If his hand was of iron, it was covered by the traditional velvet glove. As chief-justice, he listened to the last to the greatest bore of a barrister with the blandest attention. When in the house he was approached on any general matters not affecting his political theories, he strove to conciliate, and to meet as far as he could the requirement asked, and he endeavoured, even in his opposition to a request, to avoid in any way wounding the feelings of the party he addressed.

Mr. H. J. Boulton was entirely the reverse of all this. He acted as if he was an intensified example of the general feeling of the day ; as if he failed to understand the strength of the language, and the offensive tone of the epithets he used. Thus, in the discussion on the civil list, he spoke of the "factious insolence" of the opposition. He compared Mackenzie in his motion on the chaplaincy "to an assassin who gave exercise to the brutal force of his nature by shooting down a man in the street." Mr. Hagerman, the solicitor-general, followed. His manner was more subdued and he was of a different character from Mr. H. J. Boulton. He possessed great power as a speaker. On this occasion he had the bad taste to threaten the house with the power of the lieutenant-governor, we may be certain from Colborne's subsequent career, without his authority and utterly at variance with his feeling. Mr. Hagerman told the house that the lieutenant-governor had strong feelings on the subject of the chaplaincy, and if they opposed his wishes, confusion would follow and an end be put to such proceedings. With such leaders of the house, is it a matter of wonder that the melancholy exhibi-

tion of injustice and persecution which followed should be on record?

Although Mr. Mackenzie knew only too well that the majority were unfriendly to him, he moved for a committee of inquiry into the constitution of the house. Numerous members held offices under government at pleasure; sheriffs, postmasters, commissioner of customs and registrars. Mackenzie's proceedings, in this respect, were identical with those of Burke, half a century earlier, when in 1780, he struggled for the "better security of the independence of parliament." As in Burke's attempt, Mackenzie attacked the sources of corruption in the person of members who, dependent on the government, were unfailing in their support of the executive. So long as places are to be filled, there will always be found men willing to fill them, on the condition of sustaining every government measure. A class was consequently found in Upper Canada to defend every abuse, no matter its character. As in the case of the motion of Burke, who, with other incongruities found that the holder of the office of turnspit in the king's kitchen was a member of parliament, and that in parallel cases there was a perfect reliance on these persons, so in Upper Canada, the registrars, postmasters and such like, were little inclined to risk their places by the failure to vote as they were called upon. It was the principle that Mr. H. J. Boulton thoroughly appreciated, and upon which he acted, for it animated the representatives of many constituencies to be the mere echo of his opinions. The constituencies also, in spite of the act, were unequally divided. At the same time, only those members who supported the policy of the executive as in modern times could obtain the concessions they asked. The committee was granted.

At this period in his career, Mackenzie rendered a public service to the province. His opposition to the grant of a pension to the widow of an official so appealed to the strangers' gallery that it was followed by applause. The galleries were, of course cleared. Had Mackenzie been capable of exercising that difficult virtue of self-control, it is possible he might have

become the first man in the assembly, as in numerous cases in other provinces of the empire, such a result has happened. It was the quality in which he was most deficient, and his want of judgment was the cause that his restless activity was unrestrained. He was constantly bringing himself before the public declaiming against what he classified as abuses, often with reason, but imperfectly suggesting their remedy. The management of the bank of Upper Canada, in which the government was interested, was one of the subjects of his invective. The attorney-general, Mr. H. J. Boulton, held the lucrative office of solicitor. As he felt himself compromised by such attacks, he resented them in the language of personal abuse, not by argument and a narrative of facts.

During this period that Mackenzie held a seat in the house, he was carrying on his paper, the *Colonial Advocate*. Without the least restraint he assailed both men and measures when they chanced to be in opposition to his sentiment and political theories. If deficient in self-control, he was equally free from any want of courage, and was not deterred by any personal feeling from assailing in passionate invective all that was antagonistic to his views.

He could not be prosecuted for personal libel, for he was protected by his position in the house; and there had been so much parlançe of privilege that the majority would certainly not see it violated in the person of any of its members. There was, however, another means of silencing him: his expulsion. Then followed the astounding proceeding which had in view his removal from the house, in itself, an attempted violation of law, justice and decency, to bring disgrace on the memory of those who took part in it. Prominent in this delinquency was attorney-general Boulton.

When the election was in progress Mackenzie had printed for distribution extracts from the journals of the house, in order that voters might read the division lists, and judge the parliamentary support given to certain measures by their former members. The distribution had been made at his own expense and without comment. What in modern times

is called a caucus of the leading members of the party was held, and it was resolved to move in the house for a committee of inquiry whether such a proceeding was not a breach of privilege. It must be borne in mind that the act had taken place before the election. The committee of inquiry was composed of Boulton, McNab, Willson, Samson and William Robinson, lately elected for Simcoe. The attorney-general, although the leading spirit in the prosecution, delegated the conduct of this question affecting the dignity of the house to Mr. McNab, then a new member and without experience. It was like a passage of burlesque, that McNab founded his charge of wrong-doing on the fact that the appendix had not been published with the journals. Upon the report of the committee it was moved, that W. Lyon Mackenzie, employed to print the journals, having abused his trust by publishing portions of them, and distributing them for political purposes, had thereby committed a breach of privilege. The second law officer of the crown declared the proceeding to be disgraceful. Boulton, as a lawyer, affirmed whether with evil or good intent, that the act was a breach of privilege, and that although suffering from illness, he had come to the house to vindicate the British constitution, dear to every man. The views he expressed could only be justified by an appeal to a principle of ancient date long since abandoned, which, with many others in the house of commons, had fallen into utter disuse. Thus, the presence of strangers was contrary to law, and to-day they may be ordered at any time to withdraw, but their attendance is tacitly permitted. For many years in the last century it was held to be a crime to report the proceedings of the house, and they were given to the public as of some imaginary government with an extravagant nomenclature; but no one at that date believed that he was violating any rule of parliament in reporting the proceedings. It had in Canada constantly been the custom to print these debates for circulation. If permitted in one form, it could certainly be allowed in any other. Mackenzie conducted his defence with spirit and ability. He justified the action he had taken,

for there had been no attempt to mislead. If he had done wrong, every editor in London, in Lower Canada, and in the province, was equally deserving of punishment. Mackenzie's protest prevailed. The majority shrank from sustaining the motion brought forward by Mr. McNab. They saw in the future their constituencies looming before them, in indignation at the infamous injustice proposed. It was a nemesis they dared not face. Only fifteen sustained the proposition, the law officers of the crown being among the number, and twenty members refused their support.

Although this attempt had failed, another pretext for assailing him was formed. This time Mackenzie was not to be attacked as the printer of the house, but as a journalist who had libelled the assembly; but before the proceedings could be matured, prorogation took place, on the 16th of March. On the day of prorogation, the committee on the representation of constituencies made its report. It called in question the position of men holding public offices having seats in the house, and drew attention to the legislative council throwing out the bill which allowed members for towns the same indemnity, ten shillings a day, as that granted to county members. It contained many practical suggestions regarding the representation, which would not to-day be called in question.

Mackenzie had by this time grown into prominence. If the design of the persecution had been to silence him, no calculation could have proved more erroneous. He now undertook to formulate a series of petitions to the king, complaining of the grievances which he had brought before the legislature, and praying for the intervention of the imperial parliament to aid in their removal. He, likewise, organised meetings throughout the province to obtain signatures to petitions, asking for reform in the constitution of the executive council.

The legislature again assembled on the 17th of November of this year. On the 16th of December, the attack against Mackenzie began. Two of his articles had given offence;



the first was his comment on the mode in which the petition of the township of Vaughan had been received. The article was sufficiently temperate in its tone, but the sting of it lay in the enumeration of the members who had voted against its reference to a committee. The principal opponent of such reference was the proprietor of the *Kingston Herald*, a strong supporter of the government, who had moved an amendment that the committee be chosen at noon, by the vote of the house. The attorney-general had sneered at the petition, and treated it as the effort of a few unknown individuals, while the solicitor-general suggested its reference to a committee of the whole, and so got rid of it.

The second article was more aggressive, but not more so than the general tone of the press at that time. It praised lord Goderich's despatch to the governor-general, and contrasted the executive of the two provinces. One passage of the article ran,\* "Our representative body has degenerated into a sycophantic office for registering the decrees of as mean and mercenary an executive as ever was given, as a punishment for the sins of any part of North America in the nineteenth century. We boast of our superior intelligence, of our love of liberty; but where are the fruits? Has not the subservience of our legislature to a worthless executive become a bye-word and a reproach throughout the colonies?"

At that date in the petty political life of Upper Canada the personal element was rarely absent, and it came to the surface in any particular event. On this occasion the former speaker, Mr. Willson, who had been defeated in 1829, to no little extent by the effort of Mr. Mackenzie, was the leading actor; seconded by Mr. Burwell, whose desire to obtain a pension for a widow had been thwarted by the same influence. They brought forward an abstract motion in support of the maintenance of the privileges of parliament. Mr. Bidwell moved that, as much of the journals as related to the previous attempt at expulsion should be read, but the vote against the motion was 25 to 15. A second amend-

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\* [Life and Times of W. L. Mackenzie, Vol. I., pp. 211-213]

ment of Mr. Bidwell in advocacy of a free press in modern and enlightened times, changed the vote to 24 to 16; there was still a majority of 8 against the amendment. A motion followed recapitulating the two articles, and describing them as gross, scandalous, and malicious libels.

Mackenzie, having avowed the authorship on an appeal to the speaker of his right to be heard, proceeded to address the house, but was stopped by an adjournment. At the next meeting, Mr. Burwell returned to the attack by moving the appointment of a committee to inquire if other libels had been published during the session. This motion was declared out of order. The speaker, however, stated that his decision at the previous meeting, according to Mackenzie the right of self-defence, was an error on his part. Mackenzie, nevertheless, continued to speak in justification of his conduct. He denied the jurisdiction of the house, and contended if he was to be prosecuted he should be subjected to a trial by jury. If abusive language either written or spoken was held to be libellous, attorney-general Boulton had laid himself open to prosecution by calling Mackenzie a reptile, while the solicitor-general had likened him to a cur, or spaniel.

On the conclusion of his speech in the afternoon of the 9th of December, Mackenzie left the house. The vote was taken the following morning. Mr. Perry, seconded by Mr. Cook, the member for Dundas, moved that the order of the day be discharged; the vote against it was 27 to 15. It was followed by the attorney-general moving that Mr. Mackenzie be not heard in his defence. It was carried by the same vote. On the same day Mr. Mackenzie was declared guilty of libel. The question came up on Monday the 12th. There was an attempt to carry a vote that Mackenzie should be reprimanded at the bar of the house; but it failed. The vote of expulsion was carried by 24 to 15.

Writers have blamed sir John Colborne for not interfering in the proceeding. Its scandalous character is without a defender, and the fact is admitted that such an event would be impossible at the present day. It may be pleaded that

the members of this assembly had no correct conception of parliamentary government ; like the house of Lower Canada, they held that they possessed unlimited power. It would be difficult to explain in what manner the lieutenant-governor could have interfered, without becoming a partisan in opposition to his own executive. Moreover, he depended for his constitutional knowledge on those about him, and both law officers of the crown justified the legality of the proceedings. The debate had extended over six days, and every attempt to shake the views of the majority had failed. We must bear in mind the period when the event happened. The reform bill had but lately passed, and its liberal provisions had only imperfectly penetrated political life, while those members who were prominent in assailing Mackenzie were more or less interested in the perpetuation of the abuses that prevailed. Of the mistake in expelling Mackenzie, there cannot be two opinions. Even at that date a large number in the constituencies regarded it as an abuse of power, and the election of two years later proved this fact. It was an act of passion that can be explained only by the bungling incompetence which marked the career of attorney-general Boulton. Doubtless, had sir John Colborne spoken on the matter, he would have received some reply, however veiled in courtesy, antagonistic to any exhibition of forbearance. The act itself created dissatisfaction with a large body of the people, for it suggested that constitutional opposition to the executive was not possible in an assembly where men were liable to persecution for the expression of their opinions. During the week of the proceedings, the result had been foreseen, and petitions numerously signed had been presented to the governor-general praying him to appeal to the constituencies to test public opinion on this abuse of justice. By appointment, the petitioners proceeded to government house to receive the reply. They numbered 930 persons. The answer they obtained was in few words: "Gentlemen, I have received the petition of the inhabitants."

On the return from government house the crowd hooted

on passing the legislative buildings, and proceeded to the houses of Mackenzie and Egerton Ryerson, loudly to cheer their inmates. The mob then separated. Ryerson was then supporting Mackenzie, but before two years had passed Mackenzie, when mayor, was maligning him in the *Advocate*, and forever alienated him as a friend. The movement was not without its influence upon the house. In the hope that it would be a popular measure, it voted an address to the crown, praying that the clergy reserves be sold, and the proceeds applied to education.

The new election for York took place on the 2nd of January. Mackenzie was attended by forty sleighs. In an hour and a half, while he received 150 votes, his opponent, Mr. Street, had only one recorded in his favour. The contest was therefore abandoned, and Mackenzie was again returned. After the election he was presented with a gold medal.\* The sleighs passed down Yonge street to the parliament buildings, for the legislature was still in session, bearing flags and devices, preceded by a couple of Scotch pipers. On entering the house, Mackenzie waited below the bar to be sworn in, upon which Messrs. Vankoughnet and McNab raised the question of his previous expulsion. A vote of 24 to 20 to proceed to the orders of the day was carried. Several of the crowd had pushed their way into the chamber, and when the vote was understood hisses from them were heard. The point originally raised as the objection to Mackenzie was, that he was the author of libels calculated to bring the government, equally with the house, into contempt. No new cause of complaint had been adduced. Solicitor-general Hagerman saw clearly the insufficiency of this argument, that the previous libels did not create disability; and that a fresh attempt against Mackenzie must be based on a new ground of offence. An article which had appeared in the *Colonial Advocate* of the preceding day, the 5th of January, furnished the basis of an accusation. It accused the house of sycophancy, and

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\* The value was £60; a *fac-simile* is given by Mr. Lindsey (Vol. I., p. 208.) The legend reads that it had been presented by his constituents as a token of their approbation of his political career, July 2nd, 1832.

generally of neglecting the public interest. It was voted to be a false, scandalous, malicious libel. Mr. Mackenzie was allowed an hour for justification, when the house adjourned. He defended himself vigorously. At nine o'clock on the 6th of January, an adverse motion was carried by 27 to 19. The second expulsion even declared Mackenzie incapable of holding a seat in that parliament; creating a disability unknown to the law. During the time this second expulsion was taking place, the legislative council complained that that body had been libelled by a member of the lower house.

The new election for York came off on the 30th of January. It was the fourth election during the present legislature. There were two candidates besides Mr. Mackenzie who had issued an impassioned address to the constituency, Mr. Small and Mr. Washburn. The latter expressed his approval of the conduct of the assembly, and spoke of Mr. Mackenzie in terms of violent reproach. On the second day's polling, as he had received only 23 votes, he retired. Mr. Small pronounced the conduct of the assembly to be harsh and unconstitutional, but as Mr. Mackenzie had been pronounced to be disqualified, he had come forward on the theory that the electors would not elect a member who could not take his seat. In spite of his argument he obtained only 96 votes, while Mackenzie received 628. The house, however, had closed its session on the 28th of January.

As the session was being brought to a close, a message was received from the lieutenant-governor to the effect that the home ministry had recognised the right of the church of Scotland to participate in the clergy reserves; but no steps were taken to act upon this decision. Before the prorogation Mr. Peter Perry moved an address to the lieutenant-governor to dissolve the house, in consequence of the course taken in the two expulsions of Mackenzie. The motion was sustained by 18, 27 voting against it.

Public meetings followed throughout the province, owing to the strong feeling which had arisen from the persecution of

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\* [Lindsey, Vol. I., p. 227.]



Mackenzie, when petitions to the king and parliament obtained many signatures. The example was imitated by the government party, at whose meetings the expulsions were justified, on the ground of his attacks upon the character of the house. One of these meetings was held on the 19th of March at Hamilton, at which Mackenzie attended by invitation. Much disorder arose, and the proceedings ended in the division of those present into two parties, each holding a separate meeting. Mr. Mackenzie proceeded to the house of a Mr. Bailey. About nine o'clock one Kerr entered the parlour, and with some accomplices violently assaulted Mackenzie, knocking him down the stone steps of the house, and dragging him into the square in front, where fortunately he was rescued from his assailant. Kerr was tried for the offence in August, and fined \$100. Another riotous meeting was held at York four days later, when the office of the *Advocate* was attacked, and the windows were broken. Mackenzie deemed it prudent to retire to the country for some weeks, and shortly afterwards left for England to bring the several petitions to the notice of the authorities. He arranged for the conduct of his paper in his absence by Mr. Randall Wixon, and sailed from New York on the 1st of May, 1832. His intention was to return in time to take his seat at the opening of the legislature. He, however, remained a year and a half in England.

The summer of 1832 was noted for a large immigration. As a proof of the respectability and resources of many of those of whom it was composed, it has been stated that during the summer 300,000 sovereigns were deposited in the bank of Upper Canada. In the heat of the season the cholera caused much ravage among the immigrants who had taken passage to Quebec in the overcrowded, badly ventilated, ill-supplied vessels. That city suffered much from this terrible malady, and, according to its characteristic, the scourge passed up the river, visiting the towns on its banks, causing general dismay and great individual suffering. Its ravages remained but partially checked during the summer, in spite of the preventive measures taken to impede them. Happily, when the cool weather of autumn arrived, the pestilence disappeared.

In Mr. Mackenzie's absence, he had been again elected for York. When in England, he had been actively engaged in sustaining the petitions sent from Upper Canada, and had, through the advanced liberals of the house of commons, been brought in contact with lord Goderich, who had resumed the position of colonial-secretary. With the aid of Mr. Hume, who was on good terms with the government, and of other public men, he obtained an interview with the colonial secretary. Mr. Mackenzie was, however, distinctly told that he could be heard only as an individual interested in the affairs of Canada, not as one deputed to represent a grievance, and that no discussion could be entered into with him upon any such subject. The only mode of communication with the province was through the lieutenant-governor and the legislature. The governing party in Canada had likewise not been idle, and had forwarded petitions expressing perfect satisfaction with the institutions of the province. Mackenzie accordingly presented a memoir, which did not entirely please the colonial secretary from its discursive tone. The facts, however, could not be suppressed by any want of skill in representing them, and the consequence was that a despatch was written to sir John Colborne, which was received by him during the following session. This session commenced on the 31st of October, 1832.

In his speech, the lieutenant-governor alluded to the rapid growth of the population. Between 1830-1832, the increase had been 50,000, being nearly 25 per cent. on the earlier census. He announced the completion of the Rideau Canal as a work highly important to the province, opening a water communication for the steamboat from lake Ontario to Montreal. He was also able to congratulate the house on the general disappearance of the cholera.

Mackenzie's case again came up, although he was then in England. On the 2nd of November, before the lieutenant-governor's speech was considered, Mr. McNab moved that the journals containing the entry of the previous expulsion be read. It was seconded by Mr. J. S. Boulton, whom, we are told, Mackenzie had offended, by publishing his name

as having been one of the pages of the legislative council. There was no attempt to convict him of any additional breach of privilege. The law officers of the crown declared that the house had the right to determine the ineligibility of members. It was resolved that Mackenzie having been twice expelled from the house had no right to sit and vote there. This monstrous doctrine was carried by the government majority of 15 to 8: it was the third expulsion. Such was the indignant feeling of the constituency, that no one sustaining the house dared present himself for election, and Mackenzie was again returned by acclamation.

The dissatisfaction incident on the non-possession of a port of entry for sea-going vessels on the Saint Lawrence became during this session the subject of much earnest debate. The project was submitted, to annex to Upper Canada, the island of Montreal, and the county of Vaudreuil. Both Boulton and Hagerman advocated this project with much earnestness, and they described as factious the conduct of those members who did not encourage it. There was, nevertheless, much hesitation in accepting the proposition. The speaker, Bidwell, McLean and Morris, dwelt on the difficulties it presented, and that, if referred to the home government, it would be possibly declared an act of injustice to Lower Canada. No practical measure arose from the discussion.

During this session the despatch of the colonial minister, relative to the complaints made to him by Mackenzie, was by his authority communicated to parliament. It alluded to the decision of the court of queen's bench, that only county members were allowed payment for attendance, the members for towns being excluded; it expressed the readiness of the home government to recognise a law placing both classes on the same basis. Likewise, it declared its willingness to give relief to such religious bodies as from conscientious scruples refused to take the oath, and, therefore, by law were excluded from exercising the franchise. It also engaged to assent to a law to limit the number of persons who held offices at pleasure, sitting in the legislature.

The mode in which this despatch was received must remain a matter of astonishment. The legislative council described it as calling for no serious attention; declaring that no person living ever heard that such grievances were seriously thought of or imagined that they existed. Dated the 2nd of February, 1833, this resolution was signed by the speaker, Mr. Robinson. The assembly treated it in the same spirit. A motion was carried, declaring that the allegations which deeply affected the character of Upper Canada rested on no better authority than that of an individual, one who had been twice expelled from the house.

The part taken by the law officers in the repeated expulsion of Mackenzie had caused great dissatisfaction at the home office, and before the commencement of the session of 1832-1833, a communication had been sent condemning the proceeding. Notwithstanding this censure, both had actually participated in Mackenzie's expulsion during the session, and on the production of the despatch of lord Goderich had treated it most impertinently. Mr. Boulton had given vent to his bad temper by saying, that the secretary might have found something better to do than answer Mackenzie's "rigmarole trash"; while Hagerman declared that the secretary had stultified himself by noticing statements which had rested on the authority of a man twice expelled from the house, and who had fabricated libels of the grossest description. This indecency led to immediate retribution. By a despatch dated the 6th of March, 1833, both were dismissed from office; and sir John Colborne was informed that the attorney and solicitor-general had taken a part directly opposed to the avowed policy of her majesty's government. As members of the provincial legislature, they could act upon their own views as they held best for the interest of their constituents, but if in questions of political importance they unfortunately differed from the government, they could not continue to hold their offices; and in order that they might be at full liberty to form their own judgment, they would be relieved from their duties.

## CHAPTER IV.

Parliament had been prorogued on the 13th of February. When the despatch reached York at the end of April Mr. Hagerman was in England, having nominally been sent on a mission in connection with the clergy reserves. It was said, however, that his real object was to obtain the appointment as a fourth judge. On his arrival in London, he learned that he had been dismissed from the office of solicitor-general. Lord Goderich was no longer colonial secretary. He had been created earl of Ripon, and had been appointed lord privy seal; and lord Stanley held the position. He had been secretary for Ireland, but it had been deemed expedient in the interest of the ministry that he should not continue in that office; moreover, he was himself not desirous of retaining it. The new colonial secretary was so impressed by Hagerman's plausibility that he restored him to his position, and Hagerman returned to Canada, having in this respect at least gained his point.

Mr. Boulton, on receiving the news of his dismissal, allowed himself to be mastered by the worst qualities of his nature. The *Upper Canada Courier*, published at York, edited by Mr. Gurnet, was known to be controlled by him. In relating the fact, the paper was as scurrilous and as offensive as ever Mackenzie had been. It assailed the removal of Boulton as an act to alienate the people of the country, already more than half disaffected to the home government, so that it was beginning to cast its eye about for some new state of political existence. There was a good deal of such language with the official party. Boulton, however, followed Hagerman to England to make his explanations to the colonial secretary. He solemnly declared that he had been insufficiently informed of the views of the home government, and had no



desire whatever to set up his own opinions in opposition to his instructions. He must have made himself in every way acceptable to lord Stanley, who notified Boulton that although it was not possible to replace him as attorney-general, that office having been disposed of, he should receive the first appointment in the secretary's gift.

The new attorney-general was Mr. Robert Sympson Jameson, husband of the celebrated Anna Jameson ; he was subsequently in March, 1837, appointed the first chancellor of Upper Canada. Mr. Boulton, however, had not long to wait, for in June he was appointed chief-justice of Newfoundland. He proceeded to the island in the autumn. By his arbitrary and objectionable conduct, he in no long time turned the whole population against him. There is no need here to follow the proceedings taken in bringing the complaints before the home government ; it is sufficient to say he was removed from the position, and returned to Canada in 1838. No good fortune attended his further applications for employment by the colonial office. He was equally unsuccessful in his career in Canada, although he became an active supporter of responsible government, and a follower of Mr. Baldwin to the extent of voting for the rebellion losses bill. It was said that he expected to obtain a judgeship ; if such were his views he was disappointed, for he never attained that dignity.

During this time Mackenzie remained in England ; when there he appealed to the attention of the province by the publication of his book "Sketches of Canada and the United States." He brought to lord Goderich's notice the condition of the post-office ; one of his arguments was that the revenue received was not accounted for.

The explanation has been given, that much of the revenue was derivable from the correspondence of the imperial government, with the colonial, civil and military departments, and that no wrong was done to the province beyond the extravagant rates demanded for letters. Lord Goderich proposed to divide the post-office into two branches ; one

for Upper and one for Lower Canada, and to appoint Mackenzie to the western division. Mackenzie himself estimated the emoluments at \$15,000 a year, but he declined the offer.\*

During his absence, Mackenzie had been again elected for York. He left England in June 1833, and arrived in Quebec in August. The fourth session of the 11th parliament was opened at York on the 19th of October, 1833, when he endeavoured to take his seat; but a resolution was carried that he should not be permitted to sit or vote. A new writ was accordingly ordered, and on the 16th of December, 1833, he was re-elected. In his address to the electors, he declared the defect of the constitution was the want of responsible government. On the conclusion of the election, a series of resolutions was put to the meeting and carried unanimously; one of which called for an inquiry into the conduct of the lieutenant-governor for having interfered with the constitutional rights of the electors.

The house being in session, a large number of the electors and others expressed their determination to accompany Mr. Mackenzie to take his seat, upon which he entreated them to abstain from any act of violence. The house of assembly was reached about mid-day; the galleries were immediately filled, many persons being forced to remain in the lobby; some few found a place below the bar. Mr. Perry rose to present the petition of the inhabitants of York against the proceedings which had been taken affecting the election. Its reception was opposed by several members, among them Mr. McNab, who was hissed by those present. The galleries were consequently ordered to be cleared. When this proceeding had been effected as far as possible, the sergeant-at-arms ordered Mr. Mackenzie, who had been waiting below the bar to be sworn in, to leave his position. In answer to this demand he stated, that he had been elected by the county of York, and the writ returned to the clerk of the crown in chancery, then in the house, and that if leave were

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\* [Life of Mackenzie, I., p. 264.]

granted he would prove his right to be present. The sergeant-at-arms seized him by the collar, telling him he must go out, and was dragging him towards the door when his attempt was stopped by a powerful man present, who held the sergeant-at-arms back. As soon as the door was opened, the crowd in the lobby endeavoured to enter, but the members in great agitation, with the officers of the house, barricaded the doors to prevent the ingress of those outside. The sergeant-at-arms now reported to the speaker that Mr. Mackenzie claimed to remain as a member. The speaker directed the commissioners to refuse to administer the oath, and decided that Mackenzie was a stranger, and not entitled to remain. So terminated this scene of tumult and confusion, for the question to be brought up the following day.

At the next meeting of the house, a motion was carried that Mackenzie having libelled the house, and made no reparation, a resolution had declared him unworthy of a seat, and he had been accordingly expelled. It is difficult for this generation to conceive that the date of the so-called libel was the 14th of December, 1831, two years previously. Nevertheless, the motion continued, having been elected for the county of York, "he was hereby expelled." It was the fourth expulsion. On the evening of the 17th of December, Mackenzie addressed the lieutenant-governor, and requested to be permitted to take the oath before his excellency. The question was referred to attorney-general Jameson, who reported that Mr. Mackenzie was entitled to take the oath, as the person commissioned to receive it had no right to refuse administering it, his office being ministerial not judicial. The lieutenant-governor, therefore, directed Mr. Beikie, clerk of the executive council, to comply with the request. Mr. Mackenzie, however, did not present himself at the privy council until the 11th of February.

The members of the assembly did not feel particularly satisfied with the situation of matters. It had been reported that the lieutenant-governor had been instructed to remonstrate with the house on the course pursued by it, and if

without effect, to dissolve it. A committee had waited upon him, consisting of Messrs. Mackenzie, Mackintosh, Ketchum and Shepherd. In reply to their representations, the lieutenant-governor had suggested through his secretary, colonel Rowan, on the 27th of December, 1833, that Mackenzie should offer some reparation, as the house expected; and he informed the deputation, that the decisions of the house of assembly had not been influenced by the executive government. In the meantime, petitions reached the lieutenant-governor, complaining with great force of the proceedings against Mackenzie.

Having taken the oath before the lieutenant-governor, Mackenzie entered the body of the house, and took the seat he had been accustomed to occupy. The house was in committee on the navigation of the Saint Lawrence. The outside friends of Mackenzie had occupied the galleries. Mackenzie had not been in his seat many minutes, when the sergeant-at-arms approached him and requested him to withdraw; Mackenzie refused compliance, on the ground that he was a member regularly elected, and had committed no offence to disqualify him. He produced the attested copy of the oath he had taken, and defied the sergeant-at-arms, to interfere at his peril. The sergeant-at-arms said he must then use force. Mackenzie subsequently stated that no more force to remove him was used than was discreet; but on returning to his place, he was seized by colonel Fraser, who although collector of customs at Brockville, sat as a member. He, however, regained his place, upon which Mr. George Boulton, the member for Durham, moved the speaker take the chair. Mackenzie then complained of the treatment he had received. To this the speaker made no other reply than that the sergeant-at-arms knew his duty, when Mackenzie was again forced from his chair, but he managed to reach it a third time. The sergeant-at-arms on removing him, reported that he had taken Mackenzie in custody, and had him in charge. It was then moved that he should be called upon to state what he had to say in his defence. Mr. Perry moved

an amendment, that Mr. Mackenzie was under no legal disqualifications, and had the right to sit and vote. The debate lasted for six hours. Perry's motion was finally lost by 21 to 15.

One of the features of this debate was the language used towards the lieutenant-governor, one of the proofs that he had not committed himself as a blind supporter of the extreme party, as many have pretended. McNab expressed his intention to vote to commit Mackenzie to jail, and looking up to the gallery, he declared that a band of ruffians had come to the house to intimidate the members. The lieutenant-governor, he said, had interfered very improperly in a manner no way creditable to himself; he was like the vicar of Bray, and might fall between the two positions he had taken. Sampson, the member for Hastings, also abused the lieutenant-governor, declaring that the house ought to take into consideration his conduct. Others of the party joined in the cry, and contended that Mackenzie should not be heard. William Robinson, member for Simcoe, advocated that Mackenzie should be sent to jail without being permitted to utter a single word; and added that Mackenzie never would have dared to shew himself, but for the lieutenant-governor's sanction. The conduct of the lieutenant-governor had been utterly unjustifiable, he had no right to have acted as he had done, without consulting the speaker; in the house they did not recognise such a right, and trusted that it would not be persevered in.

This language bears testimony to the independence of sir John Colborne towards the clique by whom he was surrounded; for he had plainly shewn he had no sympathy with the violation of the constitution by this house of assembly. The fact is likewise established, that in his day there were no prosecutions for libel, or any of those unseemly proceedings that discredited the government of sir Peregrine Maitland. His career in Lower Canada fully established the rectitude of his mind and his avoidance of all encouragement of such violence as disgraced the Upper Canada legislature of 1831-1834.



Mackenzie was thus not permitted to take his seat; he even did not again attempt to do so. No writ was issued for York, for it was opposed by those who declared the expulsion illegal, as a new election would have admitted a legal vacancy in the representation, an event denied by them.\*

One important act was passed during this session, owing to a despatch from lord Goderich, of the 8th of November 1832; it provided that the judges should hold their offices during good behaviour, and not at the pleasure of the crown, an enactment which placed them beyond the interference of the executive.

On the prorogation of the house on the 6th of March, 1834, the town of York ceased to be. The place was incorporated under the name of the city of Toronto, divided into wards, each with two aldermen and two common councilmen, with power to elect the mayor. On the 15th of the month, a proclamation appointed the 27th for the election of the municipal representatives. The act had not received the support of the liberal party, for it was conceived that the majority of the voters would be in favour of the government, and had been carried through by sheriff Jarvis, the local member. The same view was principally entertained by the supporters of the government. To the surprise of the community, when the municipal elections took place, a majority was obtained in favour of the liberal candidates. Among them, Mackenzie was returned for Saint David's ward, and Rolph for the ward of Saint Patrick. The feeling of the liberals was to elect Rolph as mayor, and a caucus was held on the 31st of March,

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\* It is customary to speak of Mackenzie's five expulsions; although there were five occasions when he was denied the right of taking his seat, the two last attacks were made in the same session. So his positive expulsions I conceive can only be considered to be four in number. The five instances when these proceedings took place were as follows :

1. 2nd session, 1831, 12th December, by vote 24 to 15.
2. 2nd " 1832, 6th January, by vote 27 to 19.
3. 3rd " 1832, 2nd November, by vote 15 to 8.
4. 4th " 1833, 17th December, by vote 22 to 18.
5. 4th " 1834, 10th February, after being sworn before the clerk of the privy council.

at which, in the first instance, this choice was maintained. Rolph did not attend, and his absence enabled Mackenzie's friends to plead his claim to consideration, as established by his expulsions, and the personal abuse showered upon him. Moreover, it was recognised that good had resulted from his visit to England; and it was also held that he was entitled to this act of consideration, as his election as mayor of the city would go far to vindicate his character. On the other hand it was asserted that Rolph required no such vindication, and was indifferent regarding the election, as his absence shewed. This argument prevailed, although it was said that Rolph was surprised and dissatisfied with the determination. He, however, made no difficulty in regard to it, and wrote that it was his intention to send in his resignation. The decision arrived at was kept a profound secret in the liberal ranks. The conservatives were perfectly willing for Rolph to be mayor, as they could elect no one of their own party; and believing that he had been selected, remained perfectly passive. Consequently, when Mackenzie was proposed they were taken by surprise, and he was elected.

Mr. Mackenzie performed the duties of mayor with ability and energy. There was no emolument attached to the office, and it must be recollected that he did not enter upon duties which were defined and known. A system had to be established, and the municipal government organised. It was in his day that plank-walks were first introduced. One of his difficulties was that of finance. There was a debt of upwards of £9,000 for the market buildings lately constructed, the interest of which was £550 a year, and there was not a penny in the treasury. A new system of taxation had to be established, and the rate, 3d. on the pound, led to much opposition, to no little extent for political purposes. As we consider the present rate of taxation, the dissatisfaction with this moderate rate reads strangely. No money could be obtained from the bank of Upper Canada; subsequently it was borrowed from another bank by members of the corporation who jointly signed a note. A melancholy accident

occurred at this date. A public meeting was being held in the market-place, presided over by sheriff Jarvis, with the object of passing a vote of censure on Mackenzie. There was a balcony over the butcher's stalls, filled with the supporters of the movement. While they were stamping their applause, the balcony broke down, and several of the occupants were thrown with violence on the ground. Some were impaled on the butcher's hooks, others suffered from broken legs and arms. According to the reports of the meeting, seven or eight died from the injuries they received.

During this year the city was visited by cholera, from which it was said every twentieth inhabitant was a sufferer. In this visitation, the conduct of Mr. Mackenzie was assiduous in the performance of his duty; he visited the patients, and did all that was possible to alleviate suffering, and to stop the progress of the malady. He was finally himself a sufferer from his exertions, having been struck down with the disease, but the attack was not serious.

Mr. Mackenzie's tenure of office was not on the whole favourably received, so that at the next election of city councillors he was defeated. The causes are not difficult to trace. It was in this period he committed one of the greatest mistakes of his life, the publication of Mr. Hume's letter, in which it was stated that the crisis was fast approaching in the affairs of Canada, which would terminate in independence, and freedom from "the baneful domination of the mother country." \* Mackenzie had the inconceivable folly to print this letter in the *Colonial Advocate*, in his desire to injure Egerton Ryerson, with whom he had quarrelled, and against whom the letter had been principally written. Ryerson in the *Guardian* had attacked Hume as one having no influence as a religious man, and to whom the petitions of the methodists should not be confided.

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\* The facts are given in Dr. Hodgins' "The story of my life" by Dr. Ryerson. [p. 118.] From their historical importance they are here appended. "In Rev. J. Richardson's letter to me he mentions that the petitions were sent in the care of Mr. Joseph Hume. He is not the person to present a petition to His Majesty on religious liberty in the Colonies, and especially

It is scarcely possible to estimate the effect upon the public mind of this "baneful domination" letter; and such is the name it has retained. The supporters of the government saw the advantage that it gave them, and they declared that the design of Mackenzie, and of those who acted with him was not constitutional reform, but the separation of the province from the mother country, and the establishment of a republic in Canada. The most liberal journals that hitherto had sustained him protested against his acceptance of Mr. Hume's views. It was brought before the city council by Mr. Denison, and the liberal majority thought it politic to assign a meaning to it which the text did not warrant.

During March of this year *The Advertiser* had published the proceedings of a committee held at Toronto, attended by 55 delegates. The principal object was to circulate an address among the electors in view of the forthcoming election. Among other resolutions, the proposal was carried to refuse the supplies unless the absolute control of the revenue

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after the part he has taken in opposing the Bill for emancipating the slaves in the West Indies. It has incensed the religious part of the nation against him. He is connected with the West India interest by his wife, and his abandoning all his principles of liberty in such a heart-stirring question, destroys confidence in the disinterestedness of his general conduct, and his sincere regard for the interests of religion."

Hume's letter is dated Bryanston Square and is as follows: "Your triumphant election on the 16th, and ejection from the Assembly on the 17th, must hasten the crisis which is fast approaching in the affairs of Canada, and which will terminate in independence and freedom from *the baneful domination of the mother country*, and the tyrannical conduct of a small and despicable faction in the colony." "I confidently trust," he added, "that the high-minded people of Canada will not in these days be overawed or cheated of their rights and liberties by such men as Mr. Stanley and the Colonial compact. Your cause is *their* cause; your defeat would be *their* subjugation. Go on, therefore, I beseech you, and success, glorious success, must crown your joint efforts!" [Lindsey, Vol. I., p. 300.]

The following remarks were applied by Hume to Ryerson. "I never knew," he said, "a more worthless hypocrite, or so base a man as Mr. Ryerson has proved himself to be. I feel pity for him, for the sake of our common nature, to think that such human depravity should exist in an enlightened society; and I fear the pangs of a guilty and self-condemning conscience must make his venal and corrupt breast a second hell, and ere long render his existence truly miserable." [Ib., p. 301.]

was conceded to the assembly; the executive council made responsible to the representations of the people; and the legislative council rendered elective. A vote was also carried of the sincere and unanimous thanks of the convention to Mr. Papineau, Mr. Bourdages, and the members of the assembly of Lower Canada, who had acted with them; also to Mr. Denis B. Viger, of the legislative council, for the prudent, zealous, and patriotic conduct in the cause of religion against the vicious system followed in the North American colonies, held to be insupportable.

The proceeding is one of the many proofs of Mackenzie's sentiment towards Papineau, and the inference is warrantable that he was guided to a great extent by what had passed in Lower Canada. Unfortunately, both for the province and for himself, Mr. Papineau's agitation was held by Mackenzie to be the course of action he should imitate. Mr. Mackenzie's own conception of political institutions was not distinguished by much reflection. His impulsive nature jumped at conclusions, and owing to the character of those with whom he had generally to act, his energy supplied the place of argument, and they accepted his views, with less reflection than even he himself had given to the questions that, in his own mind, he had so positively settled. It is admitted that Baldwin strongly objected to Mackenzie's incessant activity, and that he looked with disfavour on the violence of his language, and his extreme views. Bidwell, although more kindly disposed to Mackenzie, regarded his conduct as injurious to the cause, and would have preferred a more temperate advocacy of the principles he represented. Rolph gave more support to Mackenzie, not from any particular sympathy with him, but that he might turn him to his own views. Neither Baldwin nor Rolph presented themselves for re-election in 1834. Rolph had at this date definitely retired from the practice of the law, and had devoted himself to his profession as a medical man. He had established himself at Toronto, having removed to the city from Dundas. His ability and knowledge were immediately recognised. There



were in those days but limited opportunities of obtaining a medical education in Upper Canada, for there was no medical college. Rolph was accordingly induced to give instructions to a limited number of students, and his teaching was most successful. He had the power of awakening the attention of those who attended his lectures, and had inspired in them the strong desire of professional excellence. His success reached the ears of sir John Colborne, who on inquiry found that the respect his attainments exacted was in no way unwarranted. Accordingly, the lieutenant-governor proposed to him the establishment of a medical college, of which he should be the head, to which the support of government would be liberally given. Rolph, however, had determined again to take part in public life, and declined the offer.

One of the consequences of Hume's letter was to awaken a powerful feeling of opposition to the principle it enunciated. Egerton Ryerson was a member of an old U. E. loyalist family, and any proposition leading to a separation from the mother country was most repugnant to him. This feeling, too, was generally entertained by the body of the methodists. In consequence, while in session in Kingston in June 1834, an address was adopted to sir John Colborne, in which the conference disclaimed, with a strong expression of indignation, the "recent avowal of revolutionary principles and purposes."

As a proof of the influence exercised over Mackenzie by Papineau's public life, and of the extent to which it affected his own career, in November, 1835, he visited Quebec in company with Dr. O'Grady, a Roman catholic priest, to bring about an alliance between the leading public men of the two provinces, who advocated extreme opinions. Mackenzie, as might have been expected, was well received, and it may be said he formed an exaggerated estimate of the strength of the Papineau party, which it did not actually possess. There is ground for belief that if there had been no insurrectionary agitation in Lower Canada, no outbreak would have taken place in Upper Canada. The movement

may be said to have been determined simultaneously in both provinces. The affairs of Saint Denis and Saint Charles happened on the 23rd and 24th of November, while the assemblage of Mackenzie's partisans met at Montgomery's tavern, north of Toronto, on the 3rd of December; an accordance of date that cannot be regarded as accidental.

The elections for the new house took place in October, when the liberals were able to obtain a majority. Although Hume's letter had told forcibly against them, and his assault on Dr. Ryerson had alienated many methodists, the sentiment did not make itself felt in the elections of this year. But during the two succeeding years, the feeling of dissatisfaction, blended with an absence of confidence, grew to be very strong, and it is admitted that it was this influence which turned the elections at that date in favour of the government party in 1836, on the dissolution of the house by sir Francis Bond Head.

Another cause of offence on Mr. Mackenzie's part during the period he was mayor was that he placed a woman in the stocks. The punishment had long fallen into disuse, although it could be legally inflicted. The woman herself, as an individual, called for little sympathy; she was one of those unhappy creatures, the slave of appetite, constantly coming before the police for drunkenness; nevertheless, the feeling was strong that the punishment inflicted upon her was at variance with the manners of the day, and should not have been ordered. It is one of the incidents, during Mackenzie's tenure of office, which led to the belief in his uncompromising self assertion, and his want of judgment. In all cases he exercised his power with a high hand, and the popular feeling against this strong will formed one of the causes of his failure to be re-elected for the succeeding city council. The execution of the sentence on this occasion led to the abolishment of the punishment.

The "baneful domination" letter was considered to be so specially injurious to the liberal party, that when in parliament solicitor-general Hagerman attacked Mackenzie for

having made it public, he sat in silence under the castigation ; a proceeding by no means customary with him. There can be little doubt that he had accepted this passive behaviour, owing to the representations of those who sat on the same side of the house, and with whom he voted.

The house had met on the 15th of January, 1835. Bidwell was again elected speaker, the vote standing 31 to 27, the liberals having the majority. There had been some change in its constitution: some half a dozen members had taken the name of conservatives, but did not blindly follow the lead of the old government party in their extreme pretensions.

On the 9th of December, 1834, the "Canadian alliance society" had been formed at Toronto. Mr. Mackenzie was appointed corresponding secretary. Modern opinion can by no means justify all that the programme put forth. Among the measures advocated were an elective legislative council ; provision for the reduction of the debt ; opposition to the union of Upper and Lower Canada ; the advocacy of a written constitution. The other points urged were such as had been advocated generally by the reform party. At the general election Mackenzie had been returned for one of the ridings of York. In November the *Colonial Advocate* had ceased to appear. The publication of Hume's letter had exercised an adverse influence against the reform party ; nevertheless, they had obtained a majority in the new house, by having succeeded in influencing favourably a large number of the Roman catholic electors, especially those lately arrived. Neither Baldwin nor Rolph had been candidates. Bidwell and Perry were returned for Lennox and Addington. Dr. Duncombe, who obtained some notoriety during the troubles, had been returned for Oxford. Samuel Lount had carried a seat for Simcoe, his brother representative being Mr. William Robinson, a brother of the chief-justice, of whose opinions he partook.

Lount was a native of Pennsylvania, having been born on the Susquehanna in 1791. His father, Gabriel Lount, was an Englishman, a native of Bristol, who, after the revolutionary

war, had settled in the United States where he married. In 1811, he had passed over into Canada to the township of Whitchurch, where he practised as a surveyor. The son, Samuel, carried on the business of a blacksmith in connection with a farm at Holland Landing. He had been successful in business, and was possessed of some means. Indeed, in those days he could be called a rich man. His unfortunate execution in 1838 must ever be mentioned with pain. The obduracy of sir George Arthur and his advisers formed a melancholy contrast to the humanity of lord Durham, and sir John Colborne, under similar circumstances in Lower Canada. David Gibson and Dr. Morrison, who shared in the extreme views of Mackenzie, had also been returned.

The attempt to censure Hume's "baneful domination" letter in the house failed; for the solicitor-general had to defend himself from the accusation that he had been the utterer of the declaration that the government party would look for a new state of political existence. Mr. Gowan, indeed, had moved a vote of censure on him for having stated he would resist by physical force the law passed upon the recommendation of the king's government, imposing a tax on immigrants. The expression, as may be supposed, was explained away.

Within ten days of the opening of the session Mr. Mackenzie moved for a select committee on grievances, the result of which was the well known seventh report. Mr. Mackenzie was appointed chairman; with him were named Dr. Morrison, David Gibson, and Charles Waters. A number of documents were referred to the committee, prominent among which was lord Goderich's report. The report itself, which occupied fifteen folio pages of the journals, was presented to the assembly on the 10th of April: the appendix is exceedingly voluminous. What was peculiarly advocated was the establishment of an executive government responsible to public opinion. One-third of the report was devoted to this consideration; but it failed to deal with the question with the practical good sense which distinguished the

recommendations of lord Durham. It made the fact plain, that the irresponsible executive never hesitated to disregard the instructions of the colonial secretary, when he interfered with the policy followed in Toronto. It claimed that the executive council had no duties to perform, but those that were ministerial; that its advice was not asked by the lieutenant-governor, or if asked, was not acted upon. It was not consulted on appointments to office, and the assent to bills was entirely in the hands of the lieutenant-governor. Nevertheless, the active duties of the council were enforced by the constitutional act, and it was prescribed to the lieutenant-governor to govern in accordance with its expressed views. The lieutenant-governor himself arrived as a stranger in the province, and was open to the influence of all with whom he was brought into contact. A protest was made against the appointment of military governors, a practice explained by the theory that the office did not offer a prize to men in civil life of high ability. It was pointed out that there was some disagreement as to the consequence of establishing responsible government, and that it had not been tried in many of the old colonies. As the matter stood in the absence of responsible advisers, the lieutenant-governor was himself held to be responsible.

The result was, that the legislative council was used as an instrument for the rejection of measures carried in the other branch of the legislature, to relieve the lieutenant-governor from the considerations of a measure of which he personally disapproved. The necessity of entire harmony between the executive and the house of assembly was strongly dwelt upon, but it could not exist, while those who had lost the confidence of the assembly remained in office. The severance of the judicial and legislative functions had been frequently asked by the assembly, but the chief-justice continued speaker of the council. The demand was preferred that the council should be made elective. Indeed, it was placed in prominence, and formed the one practical suggestion of the report; for although much was said of the



necessity of a responsible executive, not the least suggestion was offered as to the mode in which the principle could be carried out.\*

Complaint was made that the members of the executive council had refused to answer several of the questions put by the committee, in some instances with an absence of courtesy, and with a want of proper consideration of what was due to the committee of the house. The report was temperately written; no exception could be taken to its tone, although its authors put their case as strongly as they were able. The report was not at the time formally adopted; nevertheless, in addition to the copies printed for insertion in the journals, 2,000 additional copies were ordered for distribution. The first one published was sent to the colonial secretary, and a copy was sent to every member of the imperial parliament. Although not carried in the session of 1835, on the 6th of February, 1836, by a vote of 24 against 15, it received the sanction of the house.

Lord Glenelg, then colonial secretary, acknowledged it, stating that the king had devoted as much of his time and attention to it, as had been compatible with the shortness of period since its arrival. The house was assured that the king desired to redress every real grievance affecting Upper Canada, and the belief was expressed that no measure incompatible with the principle of the constitution would be introduced by the assembly. On the 6th of March Mr. Mackenzie was appointed a director of the Welland canal company, in respect of the stock owned by the province. His report shewed the good and bad points of his character, while he made disclosures of a startling nature. Much that he wrote was frivolous and objectionable. Unjustifiably he published a sheet called the *Welland Canal*, and attacked the management with much acerbity. He was sued for libel

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\* The following is the language of the report on this point: "It appears, therefore, that the legislative council, as at present constituted, has utterly failed, and never can be made to answer the ends for which it was created, and the restoration of legislative harmony and good government requires its reconstruction on the elective principle."

and a verdict of two shillings given against him. The president, Mr. Merritt, moved in the house for a committee to investigate the charges made by Mackenzie, that the accounts sworn to by the secretary of the company, submitted to the legislature, were proved to be incorrect; that water-powers had been leased to the directors, and money had been borrowed in larger sums by its officers.\* During the investigation Mr. Mackenzie remained several months at Saint Catharines. In 1836 the house voted him \$1,000 for his services, but as the supplies were not granted it was not payable. It was not until 1851 that he received the money, and then without interest.

The grievance report of the house of assembly undoubtedly exercised considerable influence in England, but many of the concessions asked were precisely those that the colonial office was unwilling to grant. The officials still desired to control the province according to their own theories, and remained incapable of understanding the depressing influence exercised by this policy. They appeared as if they never could understand the change that had taken place in the province from the increase of population and the development of its natural resources. What was most painfully felt in Canada was the contrast presented by the prosperity of New York, and the semi-torpid character of the country, and as the consequence of these imperial theories, no organic change was contem-

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\* Sir Francis Hincks in a letter to Mr. Mackenzie, dated the 16th of September, 1836, there placed on record his views of the proceedings of the directors.

"As to the Welland canal books, I have already said, and I now publicly repeat, and am willing to stake my character on the truth of it, that for several years they are full of false and fictitious entries, so much so, that if I was on oath I could hardly say whether I believe there are more true or false ones. I am persuaded it is impossible for an accountant who desires to arrive at truth to investigate them with any satisfaction, particularly as the vouchers are of such a character as to be of little or no service. With respect to the charges against the Welland canal officers, the press and the public seem to have predetermined that unless Mr. Merritt and others were proved guilty of an extent of fraud that would have justly subjected them to a criminal prosecution, they were to be absolved from all blame, and to escape censure for the numerous charges which have been clearly proved." [Lindsey, Vol. I., p. 347.]

plated. The colonial office recognised only the responsibility of the lieutenant-governor, and prescribed the policy he should follow. In Upper Canada, the government party saw the advantage accruing to themselves and their dependents from this system, and remained the opponents of all change which would affect their power. The distribution of patronage gave them strength; and although in itself fictitious, while it was enforced how much soever it might be attacked it could not be successfully resisted.

Under such a system the lieutenant-governor had no choice but to observe his instructions. As sir John Colborne had followed in the course traced out for him, it was resolved to appoint a new lieutenant-governor, authorised to introduce some apparent modifications, but really leaving the old system much as it was. No reflection would be made upon the lieutenant-governor from this change, for he had been nearly seven years in the office. It was accordingly determined to appoint a successor to him, and relieve him of his duties. He was notified that such was the intention, and was directed to delay for some months, calling together the assembly, an event which usually took place in November, so that his successor might assume office before it met.

The arrival of sir Francis Bond Head, as lieutenant-governor, took every one by surprise; for the first information of his presence on the continent was the announcement that he was at New York. Hitherto, it had been customary to send out the lieutenant-governor in a king's ship. There had been no intimation that the practice would be departed from in this instance. The season of navigation had now been closed for several weeks, and nearly three months must have elapsed before Quebec would be open to sea-going vessels. The passage of the new lieutenant-governor by New York had not been contemplated, and then the notification of his arrival at that port was a matter of great surprise throughout the province.

Parliament had met on the 15th of January. Sir Francis Head reached Toronto eight days later, Saturday the 23rd.

Had his arrival been expected, the opening of parliament would doubtless have been deferred until his presence. No place of residence had been prepared for him, and he had, therefore, to find quarters in an hotel, but sir John Colborne insisted he should at once move to government house. On Monday the 25th, sir Francis was sworn in, and the following day, the 26th, sir John Colborne left the province.

These facts are necessary in entering upon the question of the establishment of the rectories in Upper Canada, for which act much blame has been thrown, and is still cast, on the memory of lord Seaton. This event has been represented as a hasty proceeding, hurried through from the anticipated arrival of his successor. Had such been the case, fifteen of the endowments would not have been left incomplete from not having received the signature of Colborne. Archdeacon Strachan's well known energy would not have allowed a measure, in every way so advantageous to the church of England, to miscarry to this extent, through want of attention to its consummation. The very failure of completeness shews the absence of deliberation with which the settlement was effected, and is a proof that no call for undue haste presented itself. Those who take this view set out of sight that Colborne was acting on the express instructions of lord Goderich, received nearly three years earlier, and in following them, he simply carried out the mandate of the colonial secretary before leaving his government; a duty he held to be indispensable.\*

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\* The despatch of lord Goderich was dated the 5th of April, 1832. He there said: "I am happy to find that your practical views, founded upon personal knowledge and experience, are so coincident with those which, upon a more speculative view, I have been led to entertain. I quite concur with you in thinking that the greatest benefit to the church of England would be derived from applying a portion at least of the funds under the control of the local government to the building of rectories and churches, and, I would add, in preparing as far as may be for profitable occupation that moderate portion of land which you propose to assign in each township or parish for insuring the future comfort, if not the complete maintenance, of the rectors. With this view, it appears to me that it would be most desirable to make a beginning in this salutary work."

[Memoir of Bishop Strachan, p. 154.]

The executive council advocated the consummation of the policy by a \*minute of the 15th of January, 1836, and at the same time explains the causes of delay. Originally, 59 separate rectories were named, to each of which about 400 acres of the clergy reserves were allotted. Of this number 44 only were completed by the lieutenant-governor's signature, such number only having been signed on the arrival of sir Francis Bond Head. With some few exceptions, the endowment did little more than furnish a fair livelihood to the incumbent; in other cases the increased value of land has given more than ordinary value to the grant. The proceeding was disputed and submitted to the courts of law; but the validity of the grant was maintained, and the threat of legislative interference was never carried out.

No doubt sir John Colborne entered into the views of the colonial secretary with much satisfaction, for his private feeling was in accord with his instructions. As a political measure, it must be judged by no such standard. The intention had long been entertained by the imperial government, and had it been acted upon at an earlier date the probability is, that it would not have called forth the bitter

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\* I conceive it necessary to give *in extenso* the minute in question, which ought to remove all misapprehension on the subject. "Pursuant to the views of lord Goderich, shewn by his despatch of April 5th, 1832, in which he concurs with your excellency and expresses his desire that a moderate portion of land should be assigned in each township or parish for insuring the future comfort, if not the complete maintenance, of the rectors, the council caused the necessary steps to be taken for the purpose of setting apart lots in each township throughout the province.

"Much delay has been caused by their anxiety to avoid interfering with persons who might have acknowledged claims to any of the reserves to be selected, either for lease or purchase.

"A difficulty in completing what his lordship most appropriately calls 'this salutary work' was also caused by the crown officers not concurring in the form to be used in the instrument by which the endowment is to be confirmed, which left the council to decide as to the mode to be adopted for that purpose.

"These obstacles have now been surmounted, and it is respectfully recommended that no time be lost in authorising the attorney-general to prepare the necessary instrument to secure to the incumbents named in the annexed schedules, and their successors, the lots of land there enumerated, as having been respectively set apart for glebes." [Memoir of Bishop Strachan, p. 155.]



comment with which it was afterwards assailed. It was certainly in accord with the principle on which the clergy reserves had been originally granted. It has been, also, challenged on the ground of expediency. By the decision of the home government, the presbyterians had been likewise included as participants in the grant. The methodists were now struggling to be so considered; they were becoming a power in political life, and their influence would have soon made itself felt, but for the outbreak of rebellion, and the events which followed.

It is customary for writers who take extreme liberal views regarding the events of this date to describe sir John Colborne as completely under the guidance of the government party, or as they call it, the "Family Compact;" and he is classified with Gore and Maitland as an exemplification of arbitrary rule. I must refer to the previous chapters of this work for the narrative\* of Gore's tenure of office. With regard to sir Peregrine Maitland, the events which happened in his time find no parallel in the days of Colborne. Colborne left behind him no memories of prosecution for libel, or of the slightest instance of individual wrong. His duty was to administer the government according to his instructions. For the greater part of the time he laboured under the disadvantage of having his principal law officer, in the person of Mr. John Henry Boulton, who was responsible for the lead of the house. What that house was from 1831 to 1834, the facts that have come down to us show it to have been intolerant, persecuting, and ignorant of parliamentary practice and ordinary comity. On the opposition side, Mackenzie's unceasing agitation, and his restlessness gave a direction to legislative life which led only to disquiet and confusion. The temper of the majority was equally antagonistic to good government. The view prevailed that the house of assembly alone should exercise control, and that it possessed the right of committing an injustice, which its own proceedings could legalize. Nevertheless, the colonial office in London could

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\* [Ante, Vol. IX. pp. 201-207.]

not understand that the fault was in the system. It is not to be wondered at that the province made little progress amid this confusion ; especially when it was affected by the tumultuous condition of Lower Canada.

Sir John Colborne, in his speech on the opening of the legislature in 1836, had stated that the affairs of Lower Canada had exercised an injurious influence on the interests of the upper province, had tended apparently to discourage emigration and the transfer of capital to the country, and had acted disadvantageously in respect of the terms on which the loan authorised by the legislature was recently negotiated in England. A series of resolutions antagonistic to this view passed the assembly of Lower Canada, which the speaker was authorised to send to the speaker of other provinces. Mr. Papineau's letter was laid on the table only on the day of prorogation, the 20th of April. Sir Francis Bond Head had then assumed office, and the consequences will be considered in the narrative of his government.

When sir John Colborne left Toronto, he received the highest marks of public esteem and respect. Sir Francis Bond Head tells us that he was accompanied for a few miles by a vast concourse of people, who vied with each other in testifying the sense they entertained of his amiable character and high moral worth. Upwards of 200 sleighs were present, headed by those of the mayor and corporation. Several parties were on horseback, with a large concourse of persons on foot. They passed some distance beyond the turnpike, when they drew up on each side of the road, leaving an open space for the lieutenant-governor to pass through. He advanced very slowly, and every one uncovered, as he passed between the lines. "Never before did we witness so much feeling with so little show," adds the record. Both sir John and lady Colborne were visibly affected ; equally so, the spectators, many of whom were moved to tears, as they gazed for the last time on those they held in such respect and regard.\*

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\* The *Toronto Courier* : The number of addresses to sir John Colborne was 34. His reply to the inhabitants of Toronto is of importance from the

He passed from Upper Canada to Montreal, where he arrived on the 1st of February. Mr. Christie, a contemporary authority, describes his journey as a continuous procession throughout, the inhabitants along the whole route turning out to receive him, and accompanying him in vast multitudes in sleighs and on horseback, from place to place. At Montreal he was welcomed by the warmest acclamations of the British population, and thence he proceeded to New York. The official news he there received has been recorded in a previous chapter.\* Fortunately for Canadian history, they led to his return to Canada.

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following passage which the answer contains: "It was recently announced to me that my administration of this government is about to cease. Some weeks before this communication was made to me, I had transmitted to his majesty's government my absolute resignation of the government."

\* [Ante, p. 3.]



BOOK XXXVI.

UPPER CANADA.

THE GOVERNMENT OF SIR FRANCIS BOND HEAD.

THE OUTBREAK OF 1838.

THE GOVERNMENT OF SIR GEORGE ARTHUR.

MR. POULETT THOMSON

[LORD SYDENHAM].

THE UNION OF THE CANADAS,

1841.





## CHAPTER I.

The lieutenant-governor selected to succeed sir John Colborne was sir Francis Bond Head. He remained in Canada but twenty-six months, from January, 1836, to March, 1838, and no period in the history of the province was more politically eventful. Previous to discussing the circumstances of this appointment and of Head's career in the province, I will refer to a statement which has been partially accepted, that his appointment was in itself an official mistake and that he was never designed for the office ; that by error sir Francis was nominated, whereas in reality the appointment was intended for his kinsman, sir Edmund Head, afterwards governor-general of Canada from 1854 to 1861. Sir Francis Hincks states that he was so informed in London, as a matter of general belief. No doubt there was such an *ou dit*, for the eccentricities of Head, among which may be included his extraordinary " narrative " and the disorder in which he left Upper Canada, were not encouraging to any one to admit the paternity of the recommendation of him. An examination of the facts of the case will, however, shew that this opinion is not tenable. Sir Edmund Head was born in 1805, so that on the selection of his kinsman, he was but 30 years of age, and until the few past months, when he had been appointed a Poor Law commissioner, had only been known as a university examiner at Oxford. I conceive few will contend that in these circumstances his antecedents suggested the political appointment report has assigned to him. Hence I conceive that the explanation cannot be accepted.

Sir Francis Bond Head, on the other hand, had undoubted claims to consideration, and, except from his own flippant narrative, his qualifications would never have been disputed. A strong point in this view is that the lieutenant-governorship

of Upper Canada was no prize for an active and able politician of sufficient status to lead to his selection. It was the very insufficiency of the emolument which had suggested the choice of general officers, who enjoyed their pay and allowance, in connection with the £3,000 which was all that the governor-general received, without contingencies of any kind from the country. We have a proof of this in Head's own statement. He tells us that before he was sworn in he was made to understand he was a debtor to sir John Colborne for furniture, stoves and kitchen apparatus for £1,050, in addition to which he had a further sum of £1,000 to pay for horses, carriages, sleighs, linen, liveries and additional furniture. He mentions further that for breaking up his establishment in England and for temporary outfit he was subjected to an expense of £500. He was called upon to proceed by New York packet direct to New York, and thence to Canada at his own cost. On the morning of his departure he was offered £500 for his expenses, from which £230 were deducted for the fees of his commission. These facts alone, independently of the political turmoil in which the province was cast, would have led to the refusal of the appointment by any public man who had the slightest chance of a successful future.

Until the publication of his erratic despatches and his intemperate narrative, Head had a fair reputation. Knowledge of colonial political life had not hitherto been an exaction from the colonial office. The reputation of respectability and good sense, with confidence placed in the capacity to exercise judgment and prudence, were sufficient recommendations, and the colonial office never failed to impress the fact that obedience to their instructions was the first consideration. In considering the appointment of Head, we must keep in view the position which, by his antecedents, at this time he would claim. We are led into error, if we judge him by what he proved to be during the two years of his government.

At the date of his selection, he was forty-seven years of

age, having been born in January, 1793; he was a man of family, the great grandson of sir Francis Head, of Hythe in Kent, the baronetcy having been conferred in 1676. After passing through the military college at Woolwich, he obtained a commission in the engineers in 1811; he saw service in Spain, and was present at Ligny and at Waterloo. At Ligny, he had a horse killed under him and attracted the notice of Blucher, through whose representations he received the military order of merit from the king of Prussia. After the peace he had been engaged on a trigometrical survey of the island of Lampedosa in the Mediterranean, and impressed by Childe Harold, then lately published, he had visited Greece. In 1825, when a captain on duty in Edinburgh, it was proposed to him to proceed to South America in charge of some gold and silver mines. He landed at Buenos Ayres with a staff, and made his way to the mines of Upsallata, 1,000 miles from Buenos Ayres. Leaving his party at the Andes, he returned on horseback across the Pampas. On his return, he found letters that made it necessary that he should go to Chili. He again crossed the Pampas, and led his party from Mendoza to San Iago, whence they proceeded to prospect, travelling over 1,200 miles. When he had concluded his report, leaving his party behind him he again rode across the Pampas, having travelled 6,000 miles, living on dried beef and water, and sleeping where he could. On his return he published a work which immediately brought him into notice, "Rough notes across the Pampas,"; the book obtained for him much literary reputation. In 1828, having attained his majority, he retired on half-pay. Between 1830 and 1834, he published the "Life of Bruce, the Abyssinian traveller," and "Bubbles from the Brunnen of Nassau." In 1834 he was appointed a Poor Law commissioner for one of the Kentish districts at a salary of £500 a year. He performed his duties with much ability, and attracted attention by the introduction of several well considered reforms, and was held in the department to be an able and efficient official. This fact is admitted by those not friendly to him, and may

to some extent explain his selection as lieutenant-governor, in connection with the difficulty experienced in inducing men of political eminence to accept the position. Had Head's government been successful, and had he exercised judgment and discretion in fulfilling the duties of his office, in place of acting with the extravagant self assertion which characterised him, the question of his primary fitness never would have been raised. In "A Narrative," published by him in 1839, he endeavoured to throw ridicule on the government for his selection. He related how he was taken by surprise on being summoned to meet lord Glenelg, in order to shew that choice of him was inopportune, and he dwelt on his own ignorance of everything connected with the colonies. It was an absurdity, however, for him to say that in the excitement attending the reform bill he had paid no attention to politics; for whatever his faults, he was a man of intelligence.

When he saw lord Glenelg he refused the appointment, as he says, respectfully and gratefully. Lord Glenelg repeated his wish to submit his name to the king, and requested him to see Mr. King, the under secretary. In this interview, he agreed to accept the position, and the fact was announced in a letter to lord Glenelg.

When we learn the treatment Head experienced from the colonial office, it must be a matter of surprise that anything so fatuous should have been attempted. Although it was well known that the pay of £3,000 a year sterling was utterly insufficient to meet the official expenses of the office, and the custom had been to appoint general officers whose military pay supplemented the inadequacy of their official income, Head was informed that the salary would be reduced £500 a year, and there would be no allowance for an aide-de-camp; moreover, that he would forfeit his half-pay as major. Head at once declared it would be unreasonable to proceed to Canada with a diminished income, and that an aide-de-camp was indispensable. Further, he asked that, as his military rank was below that of his predecessors, he should receive a baronetcy. He saw the king at Brighton, who was very



gracious, to whom he stated his claims, and who recognised there was much truth in what he said. While his theories were admitted, his requests remained unsettled, although he had been informed that it would be necessary for him to sail in a few days. Finally he was authorised by lord Howick to appoint lieutenant Halket, of the Coldstream guards, as his aide-de-camp; and his claim for a baronetcy was compromised by his being appointed knight of the Hanoverian order.

Head immediately started for Liverpool, and took passage by the New York packet. The vessel "was actually out of the harbour," when an official letter was received by him revoking the appointment of lieutenant Halket as aide-de-camp. As that young officer had obtained a year's leave, Head invited him to accompany him as his guest.

When Head entered Toronto, as he tells us, with the grievances report in his baggage, he saw the walls placarded with allusions to himself as a "tried reformer," the more astonishing to him as he had never joined any political party and had never even voted; but to describe himself as ignorant of politics was simply a gross exaggeration.

Parliament had been opened on the 15th of January, and any second personal address from the lieutenant-governor was out of place. The proper mode of announcing his appointment would have been by message, instead of which, on the 27th, four days after his arrival, he personally attended and stated his intention to submit a message on the subject of his status. He added some personal remarks that "he had nothing to promise or profess," which did not create a favourable impression, for they were considered uncalled for. On the 31st he sent down the message containing his instructions. No proceeding could have been more injudicious. In his despatch to lord Glenelg, Head admitted that he had been instructed to give the substance of his instructions, and that in giving them in full he felt he had embarrassed both lord Gosford and the commissioners. Nevertheless, he endeavoured to justify himself as best he was able.

These instructions in no way dealt with the specific com-

plaints which had been made by the assembly. The disposition of the crown to redress all grievances was professed, but the prerogative was to be fully maintained. Instructions had been given that appointments to office were to be confined to natives of the province, or long settled inhabitants. Upper Canada college, which had been established five years previously by sir John Colborne, had been the subject of an address to the crown, that it was upheld at great expense, the principal masters receiving very high salaries, and that the province in general derived little advantage from it. Lord Glenelg pointed out that all that was desired was to provide for the effective management of the institution, and if no benefit was received, it was owing to faults of administration which could be remedied. A board of audit was proposed. The lieutenant-governor was requested to take as a guide for his political conduct the despatch of lord Goderich to sir John Colborne, of the 8th of November, 1832. On the subject of the legislative council, lord Glenelg declared that the views of the commission in Lower Canada had received the sanction of the king, and the same principle applied to Upper Canada. The point of executive responsibility was not dealt with in a form to meet the views of those advocating its transfer to the house. The lieutenant-governor's duty was to vindicate to the king and the imperial parliament every act of his administration, while the assembly had the right of remonstrance against his proceedings. It was asserted that the responsibility of the Canadian executive was not to the Canadian assembly, but to the imperial parliament of Great Britain. All the powers of government really continued to be centralised in Downing street. This despatch, from the objections so expressed to an elective legislative council, was considered by the speaker, Mr. Bidwell, as a fit subject of communication to Mr. Papineau, and it was accordingly sent to him. I have alluded in a previous chapter to its effect on Lower Canada, and the embarrassment it caused to lord Gosford.\* Even as

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\* [Ante, Vol. IX., p. 610.]

far as Upper Canada was concerned, it was a great mistake. If Mr. Mackenzie and Mr. Bidwell saw ground for admiration in the conduct of Mr. Papineau, it was by no means a common feeling with the reform party of the province. The sentiment was in the opposite direction ; for it was felt that the attempt of the dominant majority in Lower Canada was to establish the power of French Canadian rule ; and the disclosures of the fact created great dissatisfaction, and exercised its influence at the election which followed in the summer of 1836.

Sir Francis Head had interviews with Mackenzie and Bidwell. In his narrative of three years later, he tried to throw all the personal ridicule upon them that he could put to paper, and stated that the grievance report was deceptive with some ulterior object in view. He, however, wrote at the time that there was no desire to rebel, but a morbid feeling of dissatisfaction was daily increasing. On the 5th of February, he wrote that "the republican party are implacable, and that no concession whatever would satisfy them, their self-interested object being to possess themselves of the government of this province for the sake of lucre and emolument." \* Sir Francis Head, however, considered it necessary to conciliate public opinion by making some change in his council, for it consisted but of three persons. He, therefore, addressed himself to Mr. Baldwin in the first instance. Mr. Baldwin stated he was reluctant to enter public life, and at the same time fully explained his political views to the lieutenant-governor. The lieutenant-governor continued to press the appointment, and sent for Dr. Baldwin, Mr. Baldwin's father, to obtain his influence in the negotiation. Father and son alike expressed their views on the position of the council, that when the members failed to retain a majority in the house, they were bound to resign. Every one has admitted the pleasant manners of sir Francis Head, and his general good-nature in social intercourse. Baldwin believing that the appointment was really to lead to con-

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\* ["Narrative," p. 43.]

stitutional changes, finally consented to accept office, provided that Dr. Rolph and Mr. Bidwell were named with him. The elder Baldwin remained unwilling to take the position. Head had formed strong prejudices against Bidwell, which remained to the last; for in their interview the speaker had forcibly expressed himself on the subject of reform. Finally it was agreed that the receiver-general, Mr. Dunn, should be nominated. He was a man of moderate views, held in great esteem, and had hitherto taken little part in politics. On the 20th of February they were gazetted to office.

The appointments were popular, for good results were anticipated from them. Whatever the influences under which Head had acted, it was soon plain that he had no intention to change the old system of governing independently of his council. The new members were not consulted upon matters of any account. Their position was evidently only ministerial, and in questions involving the broad line of policy their counsel remained unsought. Two appointments were made to office without their knowledge, such as they would not have recommended, and the lieutenant-governor, acting on his own decision, refused to assent to the bill which allowed counsel to felons in their defence, an act unanimously passed by different houses of assembly. It was surmised, that unless from some hidden influence this course would not have been taken, and public opinion attributed the lieutenant-governor's refusal of his consent to the irresponsible advice of the chief-justice. In consequence, the whole council, including the three old members, joined in a remonstrance on this proceeding. It was presented on the 4th of March. On the 10th the lieutenant-governor made his reply. It embodied the old pretensions of the past lieutenant-governors to be independent of provincial control, as it had been forcibly exercised in the days of sir Peregrine Maitland. The opinion prevailed that those who had been prominent in that *régime* had become his advisers, and the chief-justice, in popular opinion, was pointed to in particular as exercising this influence. The ability with which the paper was drawn up

also suggested that it had proceeded from him. It was laid down that the lieutenant-governor was alone responsible for his acts, and was bound to consult his council, only when he felt need of their advice, and that on many points it was he alone who could decide what was expedient. The position taken by the councillors he declared to be unconstitutional; but he had the highest opinion of their talents and integrity. Their resignation would subject him to many difficulties, but if they decided that they should retire from office, he begged that on his account they would not hesitate to do so. They accordingly resigned on the 12th of March, having held office for twenty-two days.

Sir Francis Head had formed the view that the issue was not between two colonial parties, but between monarchy and republicanism, between loyalty and disloyalty, between the rule of Great Britain and that of the United States. In his narrative he stated\* "he was sentenced to contend on the soil of America with democracy, and if he did not overpower it, it would overpower him." In April he wrote to lord Glenelg that the grievance report was nothing but a revolutionary *ignis fatuus*, purposely created to deceive the British public, and that an executive council advising the governor-general, and not responsible to him, would lead to a democracy in the worst possible form. What is extraordinary with Head was the violent opinions he rapidly formed against the necessity of change in political life of Upper Canada. To the last he retained the strongest opposition to the statesmanlike measure of the union of the Canadas: the only policy capable of being worked harmoniously with the conditions of a responsible ministry. The measure which was to prove conducive to prosperity and content Head could only recognise as leading to anarchy and confusion. With all his brilliant qualities, and in many respects, his undoubted ability, his absence of political sagacity and statesmanlike judgment must remain a marvel.

It is not an exaggeration to point out the resemblance of

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\* [Page 65.]



character in many respects between sir Francis Bond Head and Mr. Mackenzie. They had many characteristics in common, with the same faults. Both were honest and disinterested in their private relations. Of Mackenzie it may be said, that at the commencement of the rebellion he was in good circumstances, and that the active part he took caused his ruin. However different their antecedents and education, both were equally deficient in political training. Neither ever learnt to be reticent, and to engage in public business with the moderation which often disarms an opponent by forbearance and courtesy. Both were equally without judgment, and reckless of consequences. Each had strong faith in his own views and opinions, and never faltered in the belief that he could overwhelm all opposition by his energy, and that perseverance must gain its end. There was no difference in the impatience of contradiction, the fault of both; and as they were ready to strike down all opposition by any means that suggested itself to them, they were prepared to force themselves into prominence by any means on every occasion that offered.

Sir Francis Head in his way was as much an agitator as Mackenzie. By the following he was seeking to obtain, he was untiring in endeavouring to prove that the connection with the mother country was threatened, and that the desire of the reform party was the establishment of a republic. Not only was it his effort to enforce this opinion in Canada, but his long despatches to the colonial office were conceived in the same key. His endeavour to establish a reaction in opinion succeeded for a time, as the opposition in the assembly behaved with a singular want of judgment.

On the resignation of the members of the executive council, within two days sir Francis Head supplied their places. The four members of the council selected were men held in esteem, but with one exception were without political prestige. Three of those named were Mr. Elmsley, Mr. Allan and captain Augustus Baldwin, a retired naval officer, afterwards known as admiral Baldwin, an uncle of Robert. They could

be counted upon to give sir Francis Head all the support he asked. The fourth was Mr. Robert Baldwin Sullivan, who had started life on the liberal side. At the municipal election of 1835, he had beaten Mackenzie for Saint David's ward and was the second mayor of the city. Mackenzie as usual had personally abused Sullivan as an unprincipled lawyer, who would "be the loudest for the client with the longest purse." Sullivan retorted by describing Mackenzie as an upstart and a demagogue. The conservatives had consequently given their support to Sullivan, and by degrees he became identified with that party. He was a man of pre-eminent ability. After the death of Peter Robinson he became commissioner of Crown lands and a member of the legislative council. Under sir George Arthur's government he held office in the executive council. He rendered great service to lord Sydenham in carrying the union act, for he had little in common with the old government party. In the government of lord Bagot he subsequently belonged to the Baldwin-La Fontaine administration, as the provincial secretary; in 1848, he was raised to the bench, and this office he held till his death.

The resignation and new appointments caused great excitement in the house. If Mackenzie had been a statesman he could have played a very strong hand, or had the party been restrained by Baldwin, there possibly would have been a different line of policy followed. At this date Mackenzie received much support from Bidwell, for under the quiet exterior of Bidwell a feeling of antagonism towards the government had been strongly awakened. On the 14th of March a resolution was carried, powerfully asserting the principle by which the retiring councillors had been guided. The vote, 53 to 2, shews the temper of the house, and suggests what might have been effected by prudent management. A few days later an address was carried. The vote was then 32 to 19. It expressed regret that the lieutenant-governor had accepted the resignation of the members of his council, declared a want of confidence in the new appointments, and requested that the newly elected councillors might be

removed from office. Not content with the proceedings of the house, Mackenzie's belief in agitation led to petitions being concocted, many by members of the house of assembly and being sent round to the outer constituencies for signature. The consequence was, that several of this character were presented. The circumstances, however, under which they had been prepared destroyed their influence.

A meeting was held on the 25th of March at the city hall, Toronto, when resolutions were passed partaking of the character of those of the house of assembly, with the affirmation that the lieutenant-governor was under the influence of evil and unknown advisers. For this statement there was no ground but suspicion; moreover, the general tone of the address was ill advised. If there was indiscretion on the side of the reform party, it was fully equalled by the want of judgment of the lieutenant-governor. He had invited several of the military to be present on receipt of the address, as if to give greater force to what he had to say. He alluded to the address as coming from the industrial classes, but that it would receive the same attention as if it had proceeded from the branches of the legislature, although he should express himself in plainer and homelier language. Sir Francis Head never seemed to know when he was wanting in propriety, or when he violated the political courtesies of his position. In social life he was affable in the extreme. The bad taste of summoning the officers of the garrison to be present at a political ceremony never appears to have entered his mind. His conduct was, however, resented by a protest which must have been anything but agreeable to him, for he was told, if he did not govern on sound constitutional principles, he would violate the charter, abrogate the law, and forfeit submission to his authority. This rejoinder was left at government house as an ordinary letter, and was immediately printed and disseminated through the province.

In the assembly the reform party acted with the absence of all restraint, as if no control should be exercised on the

passionate feeling which prevailed, when calmness and good sense were most called for. The correspondence between the governor and the councillors who had resigned was submitted to a committee, and a report made on the subject on the 18th of April. The matter of executive responsibility was dwelt upon at length, and the conduct of the councillors was approved. The report recommended the extraordinary course of withholding the supplies. It is simply impossible to justify this proceeding, the most extreme measure which a representative house can recommend. That Head's conduct had been unwise and irritating there can be no doubt, but to have accused him of deliberate trickery in the negotiation was unwarrantable. The fact is, Head's want of experience, joined to his inordinate vanity, led him to believe he could influence men by fair words and epigrammatic writing. He had really no defined policy at this date, except to assure his own success. As events progressed, he formed an insane hatred of what was held by him to be democracy, leading to separation from the mother country. Although the supplies for the civil service were withheld, grants were made for the construction of roads and the maintenance of schools, the improvement of navigation, and other general useful purposes. The lieutenant-governor refused his assent to the bill, the ground assigned by him being that it would have been providing funds to send a messenger to England.\* If the assembly acted unwarrantably in the extreme measure they had taken, the justification of the lieutenant-governor, as he founded it on surmise, was puerile. The assembly, or at least some of its members, must have felt that the step taken by them was not wholly justifiable, for they voted an address to the king assigning the reason for the stoppage of supplies. Head had not then been in the country three months. This address declared his conduct to have been "derogative to the honour of the king," and demoralizing to the community, while he was charged with acting tyrannically, unjustly and deceitfully. At the same time a memorial was sent to

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\* [Despatch, April 28th, 1836. Narrative, p. 96.]

the house of commons, declaring his public acts to have been arbitrary and vindictive, and he was charged with "misrepresentation and deviations from candour and truth." These documents were officially signed by Bidwell as speaker.

Parliament was prorogued on the 20th of April, and it was on that occasion that Bidwell laid upon the table the letter from Mr. speaker Papineau. It had been written owing to the circumstance that sir John Colborne in his speech, on the opening of the legislature in 1836, had stated that "the affairs of Lower Canada had exercised an injurious influence on the interests of the upper province, had tended apparently to discourage emigration and the transfer of capital to the country, and had acted disadvantageously in respect of the terms on which the large loan authorised by the legislature was recently negotiated in England." A series of resolutions antagonistic to this view passed the assembly of Lower Canada, which the speaker was authorised to send to the speaker of the other provinces. Papineau's letter was dated the 15th of March, 1836, but it had been kept back until the present date. It was a long, rambling account of the disputes of Lower Canada with the imperial government, and designated his majesty's government as the "naked deformity of the colonial system." The royal commissioners he described as "these deceitful agents," and he declared "that the state of society all over continental America requires that the forms of its government should approximate nearer to that selected, under propitious circumstances, and after mature consideration, by the wise statesmen in the neighbouring union, than to those into which chance and past ages have moulded European societies."

It was this letter which, on the 28th of May, 1836, on an address from the home district to sir Francis Bond Head, drew from him the extraordinary phrase, that I presume will never be forgotten: "The people of Upper Canada detest democracy. They revere their constitutional charter, and are consequently staunch in allegiance to their king. They are perfectly aware that there exists in the lower



province one or two individuals who inculcate the idea that this province is about to be disturbed by the interference of foreigners, whose power and whose numbers will prove invincible.

"In the name of every regiment of militia in Upper Canada, I publicly promulgate, *Let them come, if they dare!*"

No proceeding could have been more unwise than the conduct of Bidwell in the submission of this letter. Except with some of the leaders of the reform party, there was no sympathy in Upper Canada with the political attitude assumed in the lower province. The opportunity that it gave for the accusations of disloyalty, of the desire of separation from the mother country, and of the bad spirit which actuated the reform leaders, was by no means lost. They were appealed to in every constituency in the forthcoming election, and awoke the old feelings of the U. E. loyalist. On the prorogation Head's speech was of unusual length, having taken an hour in delivery. He expressed surprise at the refusal of the supplies, the first time in the history of the province that such a proceeding had been resorted to. He had been the bearer of instructions to examine and correct the grievances complained of, and he did not anticipate being subjected to an embarrassment of this character. The course taken by the house would be severely felt by all in the employ of the government and from the discontinuance of the public works.

Generally, he reviewed the proceedings of the house, and those which had taken place during the three months of his government, into which, certainly, he had crowded as many complications as could possibly have been effected.

He dealt with the epithets applied to him in the address of the house, and narrated that he had received loyal addresses from all parts of the province. He spoke at length in a general way of his intentions towards the province, and told the house that if the agricultural population did not clearly see the effects of agitation, he could not save them. Everywhere he had witnessed proofs of the reaction that was taking place, and he applauded the noble British spirit which had in all

directions manifested itself to protect him from insult, and to aid him in his progress of reform.

Public excitement was not decreased when parliament closed. Many of the members on the reform side even felt personal animosity towards the lieutenant-governor. Many of their journals went to the verge of disloyalty, asking how men could continue loyal when deprived of their rights, and when their petitions were contemptuously treated. With even moderate people, it was thought that rebellion must follow. It seemed to such as these the consequence of stopping the supplies. Others regarded the proceeding as most mischievous; what Canada required was the development of its resources, and the completion of public works. I have mentioned\* how Buffalo and the prosperity of the state of New York attracted the attention of lord Durham, and the influences they had worked on his mind. Unfortunately, at that time no one could shut his eyes to the contrast presented between the depressed condition of Canada, and the activity and advancement of the New York population.

The condition of Lower Canada had also unfavourably impressed Upper Canada. It was believed, it was passing rapidly to a state of insurrection. The power of the discontented French Canadian party was much magnified by Mackenzie and his followers, and there was a belief in many quarters that it might be triumphant in its efforts against the government. On the other hand, the turmoil and tumult of the lower provinces were pointed to by the supporters of the government as a proof of democratic influences. Even with those who entertained strong discontent regarding the form of government of Upper Canada, the thought of separation from the mother country appeared a calamity which was intolerable. The violence of Mackenzie was regarded as pervading all who sustained him, and it was considered to represent the general feeling of the reform party; whereas, it was most displeasing to Baldwin and the

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\* [Ante, p. 136.]

moderate reformers, who were in no way supporters of the government.

In May, a strong party entertaining these feelings of attachment to the mother country formed in Toronto the "British Constitutional Society." It professed to be the re-establishment of the society formed during the war of 1812. One of the leading objects assigned was the maintenance of connection with the mother country, but it fell under the control of men who were strong supporters of the extreme policy of the lieutenant-governor. In opposition to this association, the "Constitutional Reform Society" was formed, the president of which was Dr. Baldwin, and the secretary, Mr., afterwards sir Francis Hincks. Its members, confident in their numerical strength, conceived that by this organization their majority in the assembly would be maintained. They treated with contempt the imputations on their loyalty to British connection, and the lieutenant-governor's theory of a foreign invasion became a matter of ridicule. Parliament was dissolved on the 28th of May. The elections followed on the 20th of June. Both parties put forward their best efforts. The government party endeavoured to establish the view that the question at stake was British connection; and it was claimed that land-patents entitling their holders to vote were unfairly issued. Lord Durham did not conceive this charge to be sustained, but he considered that many so issued were the consequence of official favouritism, which no lieutenant-governor with the proper sense of his duty would have permitted. Complaints were made that partisan returning-officers were appointed, and that there was little scruple observed in the effort to obtain success. Lord Durham in his report commented on this selection. He described sir Francis Head as considering that the maintenance of the connection with the mother country depended on his triumph over the assembly, and he placed the issue in this light before the province. The British were roused by the threat of this danger, and were also indignant at the conduct of several members of the late

majority and at many of their speeches which shewed this preference for United States institutions. They were struck with the progress of New York, and they affected to hold the assembly responsible because the works which had led to this increased wealth had not been carried on in Canada.\*

The consequence was that the government party was returned by an immense majority, 44 to 18. On the conservative side Hagerman met with no opposition in Kingston. McLean, returned for Stormont, was again elected speaker, and the leading members on that side were Jarvis for Cornwall, Jones and Gowan for Leeds, McNab for Wentworth, Robinson for Simcoe, Burwell for London, and Sherwood for Brockville. Mr. Draper, afterwards chief-justice, on this occasion entered the house for the first time. On the reform side Bidwell and Perry were defeated, as was the case with Lount. Dr. Rolph was, however, returned for Norfolk. York had been divided into four ridings. Gibson, Morrison and Mackintosh were elected for the first, third and fourth, but they were men of little influence in the house. Mackenzie was defeated in the second riding by a Mr. Thompson. The result took him entirely by surprise. He never anticipated such a result ; he believed that his supporters held him in the same esteem as formerly. We learn from his biographer, and so the fact cannot be disputed, that he had retired to the house of a friend, and on receiving the news broke down and wept with a bitterness of spirit which so affected those around him that they could not restrain their tears. It may be said that it was the turning point in his life ; for those who knew him tell us his character became changed. He had always been cheerful and genial, and indeed these qualities to some extent explain his influence, for he spoke better than he wrote. He is described from this time as being often sullen, unsympathetic, moody, and more excitable. The consequence of his defeat was his establishment of a weekly paper, *The Constitution*. The first number was published on the 4th of July, 1836, the 60th anniversary of the declaration of independence. The

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\* [Lord Durham's report of the house of commons, p. 37.]

very date was suggestive. At the same time its columns were marked by a rancour and aggressiveness which had not previously been noticeable in his writings. He gave ample opportunity for prosecution, but the government was satisfied with the result of the election, and affected to treat his attacks with contempt.

A meeting had been held of the "Constitutional Reform Society." Among those who were present were: Dr. Baldwin, George Ridout and James E. Small. Baldwin was judge of the surrogate court of the home district; Ridout, judge of the Niagara district court, justice of the peace, and colonel of the 2nd regiment of East York militia. Small was commissioner of the court of requests in Toronto, and lieutenant-colonel of the East York militia. They had indulged in some rather plain-spoken remarks on the subject of the resignation of the executive councillors. Head immediately dismissed them from their several positions. Ridout appealed to lord Glenelg, who called upon the lieutenant-governor for an explanation. The explanation given was that Ridout was a member of the reform society. Previous to the election, the society had issued an address in which the lieutenant-governor was accused of having acted without regard to the constitution, and with wanting candour and truth in his statements. Although Ridout had been present at some meetings, he was not a member. The consequence was that, when he had established the fact to the satisfaction of lord Glenelg, Head received an order to restore Ridout to his offices. He accordingly found other causes of complaint, but they failed to convince lord Glenelg, who adhered to his instructions for the reinstatement of Ridout. The correspondence took place in the succeeding year, when Head stated that he positively refused to restore Ridout, and that such was the case was one of the causes of his resignation. I have somewhat anticipated the sequence of the removal of Ridout, to make further reference to it unnecessary.

Among the members returned, Dr. Charles Duncombe had been re-elected for Oxford; he entertained extreme opinions



and was dispatched to England to protest against the conduct of the lieutenant-governor during the elections. Mr. Hume supported his views, and laid his case before the house of commons. Duncombe advanced much that would have been difficult to prove, although possibly the general indictment might have been sustained. The colonial secretary sent a copy of the memorial to the lieutenant-governor for explanation. It was laid by him before the assembly, and referred to a committee; but the partisan character of its composition led to a complete exoneration from all the charges specified, so far as the committee was concerned.

The lieutenant-governor, at the end of the summer in the genial season of a Canadian autumn, travelled over a great part of the province. In his "narrative" he describes himself as passing from the southern to the eastern district, and thence to the western boundary. He was accompanied by his two attendants, and most of the journey was made on horseback. He was received as the lieutenant-governor, always with respect, many of the inhabitants accompanying him on horseback some distance on his journey in their respective neighbourhoods. Head was always good-natured, and he thus obtained the opportunity of hearing much conversation on public affairs. He subsequently published a graphic account of the journey in *The Emigrant*, which appeared in 1846.\*

We learn from himself by his despatch of June the 1st, that he had twice tendered his resignation before this date. His ostensible reason was that his income and rank were inadequate to the duties he had to perform. The real reason, he states, was the feeling that owing to his difference from the views of the commissioners of inquiry, he conceived that he might embarrass the government by remaining in the country.

He was greatly perplexed and troubled by receiving a copy of the despatch sent to sir Archibald Campbell, the lieutenant-governor of New Brunswick, in which sir Archibald had been directed to give over to the assembly

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\* [Narrative, p. 102.]

the casual and territorial revenues of the crown ; and what appears to have caused pain to Head, was the concession of responsible government. Head was himself informed that the same concession would be made in all the North American colonies. It may be remarked of Campbell, that he preferred to resign office rather than obey these instructions, and that the following year he was replaced by sir John Harvey.

After his tour he declared that the colonial secretary might build on the people of Upper Canada as on a rock. There was, of course, a party which desired to subvert the constitution ; such as these, in point of property and character had nothing to lose. The people hated democracy. At the late election the question was put : Do you vote for the house of assembly, or sir Francis Bond Head ? which the lieutenant-governor paraphrased into the plain term, are you for a republican government, or are you not ? The result of the elections was that 44 constitutional members were elected to 18 of the opposition.

The Union of the provinces would produce the effect of separating both the provinces from the parent state, on the honest principle that, if tainted and fresh meat be attached, both are corrupted. Head's remedies were :

1. Repeal of the act abandoning the revenue of 14th George III.

2. The annexation of Gaspé to New Brunswick.

3. The annexation of Montreal to Upper Canada.

4. Constituting the north bank of the Ottawa as the boundary of Lower Canada, giving the waters of the river to Upper Canada, with the obligation of making them navigable ; Lower Canada having the right to use them by payment of tolls.

This view expressed the opinions of the leaders of the government party in Upper Canada, who were opposed to the union as destroying the power they possessed, and threatening, as actually proved the case, the annihilation of their influence. Those who advocated the policy do not seem to have understood that they were furnishing an argument for

the union, powerful enough to enforce its consummation independently of all other considerations. Moreover, they do not appear to have thought, as was the case with Head himself, that he was proposing an act of spoliation and wrong to Lower Canada, which it would have been impossible for the imperial government to have countenanced. This was not a mere political memorandum, as he repeated this view with deliberation on two occasions.

His despatches continued to contain all the extravagance of his style, and are certainly extraordinary productions, when considered as official papers. It would seem, however, that the fact of his having obtained a majority of the house had condoned with the colonial secretary his bombast and his exaggeration; for to a superficial observer, judging from his despatches, it really looked as if he were going to carry his point. On the 8th of September, lord Glenelg wrote him that his "foresight, energy and moral courage" had obtained the approbation of the king, and it was gratifying to him personally, to bear this high and honourable testimony of this favourable acceptance of his services.

The new parliament met on the 8th of November, and the session was continued to the 4th of March, 1837. Mr. Archibald McLean was elected speaker by a vote of 36 to 21. The lieutenant-governor in his speech spoke of the conspicuous tranquillity of the country. It must be recollected that when he made this declaration it was but thirteen months before the rebellion. He declared his intention to maintain the happy constitution of the province inviolate. A supply bill was immediately passed. The question of the clergy reserves came up early, and the house in committee reported a resolution in favour of applying the money arising from the public sales of them to the religious and moral instruction of the people. An amendment was moved by Rolph that they should be applied to the purpose of general education, as one of the most legitimate ways of giving free scope to the progress of religious truth. The speech of Rolph on this occasion has been mentioned by several writers as having

reached the highest rank of eloquence. The original motion, however, was carried and referred to the upper house, but it was not persevered in during the session, and nothing was done.

Early in the session, Mackenzie had petitioned against the return of the second riding of York. A severe illness had prevented his taking immediate steps to advance his claim, and time was granted him to complete it. On the technicality that he had failed to enter into the prescribed recognisances within the prescribed period, his petition was thrown out. The act was one of injustice and wrong, but the majority adduced its reasons for committing the injustice. One of the measures carried in this parliament was that it would not be dissolved on the sovereign's death. The bill was opposed by the minority, for they felt that their political position in the constituencies was so far improved that their chance of success at the polls was fairly certain. Their last attempt against it was that the bill would not go into operation before the expiration of the present parliament, but the motion was defeated by a vote of 26 to 18. The most extravagant votes were made for improvements. When it is stated that they aggregated \$4,000,000, in the condition of Upper Canada at that time, it is difficult to consider that they were dictated by the honest desire for carrying on the works. Many of the appropriations had in view the conciliation of constituencies; the vote also was a rebound from the unwise economy of previous sessions; for the public mind had become fully impressed with the necessity of carrying on the public works, the importance of which were admitted. Appropriations were made for surveys of the townships south of the Ottawa and of the river itself; for the general betterment of the provincial roads; for the improvement of the Trent and Grand rivers; the completion of the Welland canal; and the construction of several lighthouses and harbours.

It was during this session that the court of chancery was established and Mr. Jameson appointed vice-chancellor, the chancellorship being vested in the crown.

Among the projects submitted to parliament was that of the union of Upper and Lower Canada. It had occupied much of the attention of both houses. The legislative council sent down to the lower house a series of resolutions against the measure, which were submitted only on the day of prorogation, followed by a motion for concurrence, which was opposed by the reform party. Several of the members had at this date left for their homes, and Rolph, for that reason claimed that the resolutions should be postponed to next session. A debate ensued, marked by much confusion; for the supporters of the government continually interrupted the members taking part in the debate. The speaker finally brought the proceedings to a close by stating the time had arrived for waiting on the lieutenant-governor. At half-past three the house was summoned to the bar of the legislative council, and the session was closed.

Both provinces were at the time seriously affected by the commercial depression which was troubling the United States. The inflation which had marked all business had been succeeded in all directions by the most paralyzing consequences; specie payments had been suspended at the banks; some of the states had repudiated their obligations; bankruptcy was breaking down houses of long-standing credit; and it looked as if distrust and insolvency were affecting the whole community. In this emergency an appeal was made to the lieutenant-governor to take measures to meet the crisis. A meeting of the legislature was called on the 19th of June, and the session lasted to the 11th of July. The first duty of the legislature was the selection of a speaker, owing to Mr. McLean having taken his place on the bench; Mr. McNab was chosen. After much debate, a bill was carried in which the banks were relieved from the forfeiture of their charters when they ceased to redeem their notes with specie, and their notes were made a legal tender for sums exceeding \$25.00. On the bill being brought before the legislative council, the power of allowing the suspension of cash payments was placed in the hands of the lieutenant-governor



in council, and the declaration that notes should be held to be legal tenders was negatived after a protracted debate. These amendments were accepted, and the bill became law. It was all the business submitted to the house.

During 1837, sir Francis Head received the baronetcy for which he had applied, when he accepted the government of Upper Canada. Many of the works treating on the peerage and baronetcy place the creation in 1838. The statement is incorrect; the date when the honour was conferred was the 22nd of May, 1837.\* The fact is important. Had the baronetcy been granted in 1838 on his return to England, it might be inferred that it had been given as a reward for his services, whereas it was conferred early in the previous year, before the outbreak occurred. Head himself tells us,† that on accepting the appointment he had given the opinion that as "he was divested of the command of troops, the civil elevation of a baronetcy ought to be conferred on him." At Mr. Stephen's request the matter was left over, in order to bring the subject to lord Glenelg's notice. It was, doubtless, in conformity with this request that the honour was conferred.

On the appointment of Mr. Jameson as vice-chancellor, Mr. Hagerman and Mr. Draper were nominated to the offices of attorney and solicitor-general. Besides the elevation to the bench of Mr. Archibald McLean, Mr. Jonas Jones was also appointed a judge of the queen's bench. In reporting these appointments to the home government, the lieutenant-governor felt it necessary to explain why Mr. Bidwell had not been appointed by him to the bench. He stated that Bidwell's legal requirements were superior to those

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\* I have to thank colonel Todd, of the parliamentary library, that I am able to give the precise date of creation. In more than one "Baronetcy" the date of creation is given as 1838. My attention was drawn to the despatches in the parliamentary papers; that of the 5th of April, 1837, is addressed to Head as K. H., the following despatch of the 30th May gives him the title of baronet. It was plain to my mind that the colonial office had not made this change incorrectly.

† ["Narrative," pp. 27-28.]

of at least one of the individuals who had been elevated; his moral character was irreproachable; sir Francis added that although Bidwell was the leader of a party who had offered him every insult and indignity, personally he entertained no feeling of animosity towards him. He had been guided, however, by the principle that the welfare and honour of a province depended on his majesty never promoting a disloyal man. Bidwell had formed an alliance with Papineau in Lower Canada, and to have elevated him to the bench would have deprived the lieutenant-governor of the respect and confidence of the country.\*

This explanation was not satisfactory to lord Glenelg. He wrote with perfect courtesy† in reply that he attached great weight to Head's opinions; but no attempt had been made to prove the disloyalty imputed to Bidwell's associates by any act of his, and that he had withdrawn himself from political strife. Lord Glenelg would not regard the part formerly taken in local politics as an insuperable barrier to further advancement.

Should another vacancy occur in the court of queen's bench, it was the wish of her majesty's government that it should be offered to Mr. Bidwell, and they would hear with pleasure that he had accepted the offer.

On the 10th of September, Head wrote a long despatch with his usual self-assertion, in which he stated that after very deliberate consideration, he determined to take the serious responsibility of positively refusing to place Mr. Bidwell on the bench, or to restore Mr. George Ridout to the judgeship. He was quite aware that such conduct would be considered an overt act of hostility; but it was the duty of a colonial governor to refuse, even at his peril, to execute what he conscientiously believed to be wrong. He repeated what he had previously said, that in his view the blame of the dissensions in the Canadas rested on the conciliatory measures adopted by the colonial office. He gave long

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\* Despatch of the 5th of April, 1837, pp. 272-273.

† [Downing street, 14th July, 1837. Narrative, pp. 276-278.]

extracts from his previous despatches ; and he repeated that the elevation of Mr. Bidwell to the bench would deprive him as lieutenant-governor of the respect and confidence of the people. He drew attention to the fact that Bidwell had been appointed a member of the provincial convention to be held in Toronto ; but omitted to state that the appointment had not been accepted. Sir Francis Head dwelt on the "joy and gladness" expressed by all parties at the constitutional resistance he had made, but it was generally feared he would not receive the support of the home government. Under the circumstances, he felt it a duty to tender his resignation. Lord Glenelg's\* reply entered into the cases of Bidwell and Ridout, and Head was informed that the ministry had tendered their advice that the resignation should be accepted. His successor would proceed to Upper Canada with the least possible delay, and he concluded with the extraordinary passage, that he relied on the lieutenant-governor devoting himself, during the short remaining period of his administration, to the "protection and advancement of those highly important interests which during the past two years have been entrusted to his guidance with so much advantage to the public service."

The summer had been passed by Mackenzie in an agitation which was certainly untiring, and it would seem that his personal feeling of anger really was in excess of his political views. He felt that he had been personally wronged, and he desired to awaken the popular sentiment against the government to such an extent that he could sweep it away. During the summer he had been endeavouring to create discontent and disaffection. The articles in his paper became more violent ; and in the second riding of York he was most active in proclaiming the grievances from which, he held, the province suffered, with the declaration that the time had arrived for the country to assert itself. He was energetically seconded by Lount, whose whole nature was embittered by the feeling that he had been beaten at

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\* [Downing street, 24th November, 1837, pp. 314-326.]

the last election only through corruption and fraud. With that strong feeling of personal wrong, he joined Mackenzie in the organisation of meetings in North York and Simcoe. Lount's theory was, in the first instance to send home a monster petition; but he was dissuaded from this view by Mackenzie on the ground of its uselessness. Nothing was said in the earlier meetings to suggest resort to force; whether Mackenzie himself contemplated this consequence, it is difficult to say, but the violence of his writings suggests this possibility. Lount's presence in the agitation had influence in obtaining support in his district, and the fact that the upper house continued its extreme opposition to every liberal concession led the reform party to conceive that this active organisation was necessary to its political existence.

It has been stated that the first distinct utterance on this subject took place at a meeting in Lloydtown on the 30th of June, and that it was then confined to the leaders of the movement. A resolution was passed that it was the duty of every reformer to arm himself in defence of his rights and those of his countrymen. In a short time similar resolutions were passed at small meetings in the home district, the country north of Toronto which extended east and west. This declaration must not be accepted as a proof of the definite determination to engage in the insurrection, but as a general affirmation that in certain cases resort to armed resistance would be justifiable. At the same time there was no positive utterance to suggest the belief, that at the time this extreme act of revolution was expedient or necessary.

One argument to influence the public mind was an expression of sympathy with the agitation in the lower province, then increasing in magnitude and violence. Resolutions were passed condemnatory of what was held to be the unjust proceedings of the house of commons, that had created so much bad feeling in that province. Papineau's pretensions received great support, but the number of the Upper Canadian population desirous of any extreme measures was

extremely small. Moreover, the angry feeling was not directed against the British government, but against the lieutenant-governor and the clique sustaining him. This feeling, so far as it was confined to political agitation, was exceedingly strong, and could not be suppressed. It embraced a numerous party in Toronto, and meetings were constantly being held in various parts of the city. Many of them took place at Elliot's tavern, then at the corner of Yonge and Queen streets, while those who entertained more advanced opinions assembled at the house of Doel, at the corner of Adelaide and Bay streets. Doel had obtained a reasonable independence by his calling as a brewer, and was active in the cause. Towards the end of July, a meeting was held at his house, when a draft-declaration\* by the reformers of the city of Toronto, addressed to "their fellow-reformers in Upper Canada," was produced. It dwelt upon the grievances under which it was asserted, the reform party suffered; and that the hour had come for their redress. With regard to Lower Canada it set forth "that the reformers of the upper province were called upon by every tie of feeling, interest and duty to make common cause with that province;" for the same coercion would be experienced by themselves, and the redress of their grievances would be the guarantee of the redress of their own. The declaration represented that public meetings should be held and organisations established throughout the country, and that a convention of delegates should be held in Toronto, with authority to appoint commissioners to meet representatives from Lower Canada, with powers in congress to seek a remedy for their grievances. It was signed by Morrison as chairman, and Elliot as secretary. Among the signatures was that of Montgomery, who owned the tavern bearing his name, and whom some writers have represented as a government supporter.

On the 28th of July, another meeting was held at Elliot's,

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\* This document is given in Lindsey's *Life of Mackenzie*, pp. 333-342. Mr. Lindsey states that it was the production of Dr. Rolph and Dr. O'Grady; but this opinion has been disputed.



and on the same evening upwards of 300 persons attended Doel's brewery. A motion of sympathy with the "patriots" of Lower Canada and expressive of admiration for Papineau was moved by Mackenzie, and it was resolved that the cause of that province should be the cause of Upper Canada. A vote was carried that a convention of delegates should meet at Toronto. The declaration was not submitted, and an adjournment took place till the 31st.

Regret had been expressed by many that Rolph had not taken any active part in these deliberations, although the belief was general that he fully approved of the necessity of impressing on the imperial government the fact that the present system could not continue. Rolph and Bidwell were regarded as the leaders of the reform party, and it was felt indispensable that any proceedings taken by it should receive their support. After the declaration had been carried clause by clause, the election of delegates took place, and the names of Rolph and Bidwell were included, as if with the determination to commit them to the proceedings that had taken place. The parties who appended their names to the declaration were appointed a committee of vigilance. John Elliot, the assistant clerk of the city council, was requested to continue as secretary in ordinary, and Mackenzie was appointed agent and corresponding secretary. This position constituted Mackenzie as the accredited agent of the reform party in Toronto to conduct the agitation. The province was divided into sections, in which branch societies were formed, and he traversed the country in all directions to complete their organisation. Mr. Lindsey describes him as having attended 200 meetings\* between August and the end of November. At all of these the Toronto declaration was read, and "vigilance committees" were formed. Throughout there was a careful avoidance of any intention of appeal to physical force. There was also great hesitation in his advocacy of separation from the mother country. The reform party generally, how-

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\* [Mr. Dent can only trace 117.]

ever, as individuals they might advocate political change, never contemplated this extreme measure. One line of policy Mackenzie personally adhered to; he maintained his communication with Papineau, his design being to act in unison with the outbreak in the lower province, and to proceed to extremes, when the field had been taken by those who were there disaffected to the government. He miscalculated the strength of the revolutionary feeling in the lower province, and thought that a far larger number were compromised in the movement than actually took part in the outbreak. What might have happened if it had been successful, is not the consideration. We have to deal with what actually came to pass: and with the limited number engaged in the earlier stages of the insurrection, Mackenzie might have seen the fallacy of his own calculations, if he had estimated with any calmness the events that came under his notice at the end of November.

It is now conceded that with the majority present at these meetings, it was believed that they were intended as a demonstration to overawe the government. Even finally, when desperate measures were contemplated, a bloodless revolution was regarded as perfectly possible. The absence of troops in the province warranted the probability of such a consequence. Sir John Colborne in the first days of the difficulty in Lower Canada, having been under the necessity of garrisoning Quebec, conceived that his force was too small to take the field, for he could not judge the number by whom he would be opposed. Considering there was no danger of insurrection in Upper Canada, he had applied to sir Francis Head, to know what troops he could spare. The lieutenant-governor, not permitting himself to believe there was any probability of trouble, had acceded to the request that the garrison could be removed from Toronto. They were accordingly transferred to Kingston. In his despatch of December the 19th, he claimed that, having desired to meet the insurgents in a "moral struggle," he had purposely

dismissed from the province the whole of the troops.\* Consequently, sir John Colborne moved the regiment to Montreal, and the province was without means of defence. In 1846, Head threw on sir John Colborne the whole responsibility of the proceeding. His own conduct was much blamed by sir Robert Peel in the house of commons of the 16th of January, 1838. He said it was the duty of the government to have prepared such a military force as to discourage those parties who were inciting to rebellion from proceeding in their agitation. Indeed, the absence of troops from Toronto was one of the grounds on which success was anticipated.

In the conception of the design of an armed attack on the government, Mackenzie appears principally to have acted with Lount, Lloyd, Fletcher, Gorham and Matthews. The original view seems to have been that the convention should meet in Toronto in the spring of 1838, and that those supporting their policy of armed resistance to authority should proceed to the city under pretence of attending it. The intention was to submit to the meeting the draft of a constitution; and in accord with its provision, sir Francis Head was to be called upon to re-model the executive council, to include Rolph, Bidwell and Mackenzie, and to render it in its reconstruction responsible to the assembly. On the acceptance of this demand a general election was to be held, and the assembly made dominant.

Should the proposition not be accepted, the lieutenant-governor and council were to be seized, and a provincial government be declared. On the theory that no opposition could be experienced, this view was formed without consultation with either Rolph or Bidwell. Rolph, however, although he had not accepted the position of delegate, had not refused to act. It was believed that he was thoroughly in accord with the policy to be enforced, but it was agreed for the time that nothing should be said to him on the subject. It is difficult to determine Bidwell's precise connection with these theories.

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\* [“Narrative,” p. 337.]

He never gave such a design direct countenance. He attended no meetings, and declined to act as a delegate when so appointed. He had, however, unmistakeably in 1836 shewed his sympathy with the Lower Canadian cause, by communicating to Mr. Papineau the instructions which sir Francis Head had laid before the house, and by submitting on the prorogation, Papineau's long letter. He had likewise given an opinion regarding the legality of public meetings for training and drill. He advised caution, and pointed out the limit to be observed. Trials of skill at matches he conceived to be within the law. It is perfectly possible that Bidwell may have believed that these organised meetings had only the political end of strengthening the party, and it must be remembered that only a few were in the secret of the ulterior design. His intimacy with Rolph may be adduced as proof that he could not be ignorant of the plan entertained by the latter. Rolph's character gives general ground for the supposition that he may have sounded Bidwell as to his views, and finding them not in accord with his own, made no communication to him on the subject. No evidence of any kind can be advanced to shew Bidwell's participation in the projected insurrection; and, taking his own positive disclaimer of all connection with it, I conceive it must be conceded, that he knew no more of Mackenzie's proceedings than the reports which, pervading the city, were common property. It is not a question in what direction his sympathies lay.

In the meantime a system of training was organised throughout the rural districts. Old arms were drawn forth from the recesses where they had long been forgotten, and many blacksmiths were engaged in making pike-heads, other sympathisers in preparing shafts for them. In most places they were spoken of as required in a procession of magnitude as a demonstration of political strength. These proceedings were brought to the knowledge of the government, but they were looked upon with indifference. No one in the purlieu of government house could believe that the rebellion was possible. The lieutenant-governor, the chief-justice, and the

attorney-general regarded the demonstration as mere bluster. It never seemed possible that a population scattered over a large extent of territory, without any stronghold of union, without arms, without money, or resources of any kind, would endeavour to attack the government. So strong was the belief that several hundred stands of arms with ammunition were deposited in the city-hall, Toronto, under the charge of the corporation, the guard over them being merely two constables.



## CHAPTER II.

Writers have affirmed that the rebellion in Upper Canada was precipitated by messages from the Lower Canadian leaders, informing Mackenzie that the French Canadians were about to enter upon the enterprise of subverting British authority. I fail to recognise that this statement is well founded. It can be seen by the narrative of the outbreak on the Richelieu\* that it came to a head more by accident than design. Its origin may be described as having arisen from the rescue of the prisoners from the cavalry escort near Longueuil, followed by the determination to arrest the prominent leaders. The affair at Saint Denis grew out of the expedition of an armed force to make Dr. Wolfred Nelson a prisoner; an attempt successfully resisted by him. The event took place on the 23rd of November, while on the 24th the insurgents at Saint Charles were annihilated. These facts do not suggest that any demand for co-operation was sent to Upper Canada. There may, however, have been some undigested proposal for simultaneous action; but whatever the facts, they have never been made known.

The circumstances are not recorded which led Mackenzie to summon a secret caucus to meet at Doel's brewery. At Morrison's trial it was stated to be about the 9th or 10th of October; Mackenzie himself described it as being early in November; and that such a caucus was held there can be no doubt. There is by no means a general consensus as to what took place. Mr. Lindsey gives the account as he received it from Mr. Mackenzie, and relates the arguments which were used by him on the occasion. It was to the effect, that owing to no troops being in the city, one sentry only being

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\* [Ante, p. 50.]

on guard at government house, the lieutenant-governor on his return from an afternoon ride could be seized and carried to the city-hall. There they would take possession of the arms and ammunition, proclaim a provincial government, secure the fort to the west, and if sir Francis Head would not concede an executive council responsible to the assembly, without delay declare the independence of the province. On this proposition being submitted, Dr. Morrison manifested great astonishment. He declined to be entrapped into such a mad scheme, and declared that he was not the man to engage in it. Mackenzie tried to argue with him, but on failing in his effort of persuasion, soon desisted from urging the attempt.

It is not possible to state with precision what took place after this date. On the authority of Mackenzie, it has been stated by Mr. Lindsey, that a second meeting was held on the 18th of November, when a dozen persons were present whose names are nowhere given. On that occasion it was determined, that the organisation of the different parties who had expressed their willingness to take part in the movement should meet to the north of Toronto, on Thursday, the 7th of December, enter the city, and take possession of it by force. The management of the enterprise was confided to Dr. Rolph as the sole executive, the details to be worked out through Mackenzie. The insurgents were to meet at Montgomery's tavern, about four miles from the city-hall, and march down Yonge street. Upwards of 4,000 adherents were expected to assemble to carry out the programme thus announced, and on its success, Dr. Rolph was to be constituted the administrator of the provincial government.

This statement is directly contradicted by Mr. Dent. He argues that such a meeting never took place, and that Rolph did not accept the position of the "executive." He contends that on the day following the meeting in October, Mackenzie called on Rolph, and assured him that 4,000 men were ready for action. He produced documentary evidence to sustain

his assertion. This conversation convinced Rolph of the feasibility of the attack, and he regarded the entire overthrow of the government as possible. It is now established that, whatever the strength of the reform party as a political organisation, only a small minority were prepared to enter into the plot of armed resistance. The leaders, however, argued that, were the provisional government once in the hands of the leaders of the reform party, the movement would receive general support. On the other hand it was advanced that, at the worst, in case of failure, refuge could be obtained in the United States. Morrison, it is stated, was led to support this view by the influence of Rolph, and at the same time an agent, Jesse Lloyd, was despatched to Montreal to confer with Dr. O'Callaghan, as representing the Lower Canadian insurgent party.

It is also said that about a fortnight later Morrison called on Rolph at his house on Queen street, at his request, and there met Mackenzie and Lloyd, who had lately returned from Montreal with a letter from Storrow Brown. It read as an ordinary business communication, but Mackenzie's explanation furnished the meaning that it was designed to convey. Mackenzie repeated his arguments to sustain his theory of the success of the movement, contending that without firing a shot the revolution could be accomplished. Sustained by this conviction, Mackenzie was deputed to proceed to the rural districts, and submit the question of armed resistance to the different political unions, with the stipulation that no one was to be committed to any definite action, and that until Mackenzie's return no authority would be given for embarking in the enterprise. Permission was, however, granted to him to use the names of Rolph and Morrison.

Mackenzie started on this journey in the first week of November. No intelligence of his proceedings was sent by him to Toronto, but information was received in the city that a secret meeting at East Gwillimbury had been held, at which Mackenzie, Lount, Matthews, Fletcher, Gorham, Jesse Lloyd and some others were present, when it had been

resolved that Thursday, the 7th of December, should be named as the night for the enterprise to be undertaken. This report was carried to Rolph by trustworthy persons. Further, he heard that he and Morrison had been named as the projectors of the movement.

During the third week in November Mackenzie returned to Toronto, and in an interview with Rolph, communicated what he had done. Between 4,000 and 5,000 men, he asserted, had pledged themselves to meet at Montgomery's tavern on the 7th of December. They would be under the command of Lount and Anthony Anderson who, it was claimed, had had some military experience. In addition he stated, that he would be able to secure the services of colonel Van Egmond, who had served under Napoleon, and had been present with the allied armies at Waterloo. Van Egmond had settled in the Huron tract, near the present village of Seaforth, and could be counted upon to take part in the attempt. It may thus be seen, that the account of these events as related by Mr. Lindsey on the information of Mackenzie, and as gathered from the Rolph MS., by Mr. Dent, is entirely at variance. There is no means of determining which statement should be accepted. Nor is it important that these preliminary facts should be determined with precision. Rolph certainly took a prominent part in the rebellion, and it was owing to a letter, written by him, that the day was changed.

It is conceded that on the 24th of November, Mackenzie proceeded to the north, and that on the 23rd Nelson had successfully resisted Gore's attack; but it could not, at that date, have been known in Toronto. Mackenzie took with him a small printing press with types, and a printer, and he there struck off a proclamation. This proclamation is given in full by Mr. Lindsey,\* from its length it must have been written before leaving Toronto. The "brave Canadians" were adjured to get ready their rifles, and make short work of it, for the struggle would be of short duration, as the

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\* [Life of Mackenzie, Vol. II. p. 358.]

people of Lower Canada were united as one man ; they were called upon to buckle on their armour, and to put down the villains who had oppressed and enslaved the country. The hand-bill was distributed, and Mr. James Hogg, of Hogg's Hollow, divulged the plot to two persons, one of whom was friendly to the government, and immediately carried notice of the proceeding to Toronto.

During these active preparations on the part of the rural insurgents, there was no intimation in Toronto that such an outbreak was even contemplated ; for the government continued entirely inactive. Sir Francis Head, sustained by his *entourage*, contended that no revolt could take place, and laughed at those who dwelt on its possibility. Among the number who earnestly urged upon the attention of the lieutenant-governor the danger of the situation, was colonel Fitz Gibbon. He had served in the war of 1812 from its commencement to its close, and had learned in that stern school the necessity for preparation. In the days of sir John Colborne, he had organised a rifle company of young men, whom he had drilled ; and now that the troops had left the province, this handful of youth was the only disciplined body available. There was, it is true, the local militia, but this force had long been neglected, and was imperfectly officered. The lieutenant-governor, although he knew of the constant meetings and secret drilling, and the manufacture of pikes, would not regard these proceedings as seditious, but as simply conducted for political effect. He declared that the *morale* of his policy was that the province should be defended by the militia, and if they could not put down insurrection, the sooner the province was lost the better. Colonel Fitz Gibbon naturally urged that they should at least be armed to defend themselves, upon which he was told by sir Francis that no rebellion could be looked for.\*

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\* These persistent efforts of colonel Fitz Gibbon are narrated at some length by his granddaughter, Miss Fitz Gibbon, in the life of the colonel, "A Veteran of 1812." Chapter IX., pp. 184-230.



The arms placed in the city-hall have been mentioned ; and as they could easily have been seized by a few determined men, colonel Fitz Gibbon, seeing the risk to which they were exposed, influenced his rifle corps, which he still drilled, to volunteer to supply a guard of some twenty men nightly, to watch the premises and to furnish two sentries for government house. His request for authority so to act was also refused ; and the lieutenant-governor replied that except that he would have been undoing what he had done, he would have moved the arms to government house under the charge of his servants.

The party throughout the province that favoured the agitation of Mackenzie had undoubtedly been much cheered by Nelson's successful resistance to Gore on the 23rd of November, the news of which reached Toronto three or four days later. This feeling, however, passed away on the news of Wetherall's success at Saint Charles on the following day, and was succeeded by great depression. Fitz Gibbon, from what he had otherwise heard, felt certain that these affairs would be forerunners of an outbreak in the upper province, and he took what precautions he could to meet such an emergency. He prepared a list of those living west of Yonge street, who would support the government, and he called upon the mayor, Mr. Gurnett, to adopt the same course for the east of the city. He arranged that the ringing of the bell of Upper Canada college should be the signal that the outbreak had taken place, and that the ringing of the bells throughout the city should follow as a general alarm. These plans were communicated to the lieutenant-governor, who reluctantly consented to them. On Fitz Gibbon seeing the mayor, he obtained little support to the arrangement. That functionary had formed his opinions upon those of government house. Fitz Gibbon, nevertheless, proceeded to visit the heads of houses to the west, as he had designed. When he called on chief-justice Robinson he was told that his apprehensions were not acceptable, and there was no use in alarming the community without cause for doing so.

Intelligence, however, reached the city from all directions that the agitation was undoubtedly assuming so threatening an appearance in the home district, and in some of the western counties, that it became difficult to treat these positive rumours with indifference, although the same scepticism concerning them remained with the lieutenant-governor and his advisers. A meeting of the council was called on the 1st of December. It was likewise attended by some of the judges, the attorney-general, the solicitor-general and the speaker of the house. During the meeting Fitz Gibbon was announced. A magistrate had notified him of the manufacture of pikes, of nightly drilling, and the excited feeling of the population of his district. This information was heard with stolid unbelief. Fitz Gibbon asked that the magistrate himself might be heard, and on this suggestion the gentleman was examined by the lieutenant-governor and Mr. Hagerman, both of whom informed the council that the information was of little account, as it came only at third or fourth hand. Mr. Allan, one of the council who had remained silent during the early discussion, now spoke. He asked how they could expect any other information, and declared himself to be perfectly of the opinion of colonel Fitz Gibbon, that not an hour should be lost in preparing for defence. The colonel urged arming the half-pay officers and discharged soldiers. Sir Francis Head still objected, and remarked, what would the people of England say when they heard they were thus arming these parties? Moreover, he pretended that the militia would feel themselves slighted by the proceedings. Fitz Gibbon contended that the contrary feeling would be entertained, that the militia would be only too glad to have this nucleus of disciplined men to support their own movements. A long discussion ensued. At length sir Francis Head said his opinions were unchanged: he considered there was no danger. If, as he had been informed, the magistrates and inhabitants were apprehensive of trouble, they should address him on the subject. He might tell them that he himself had no fears, but in order to allay theirs, he

would order measures of precaution. At the conclusion of this speech, a message was brought in that the mayor desired to see him. He had at last awakened to the possibility of danger.

After the events of the rebellion, colonel Fitz Gibbon drew up a narrative of what took place on these occasions. He there stated that it was plain to him, that the lieutenant-governor had desired to prove that he could preserve the province in tranquillity by his own judgment and moral influence, without the employment of a single soldier. In spite of these pacific views, it was resolved that Mackenzie should be arrested, and that two regiments of militia should be called out. Fitz Gibbon was appointed acting adjutant-general, owing to the sickness of colonel Coffin, who held the office, and a general order as a guide for their conduct was addressed to the militia officers of the province. In a small community like Toronto these facts became soon known. During the afternoon, one Silas Fletcher called upon Rolph with a message from Mackenzie that all was going on well, and that their friends would meet in force on the following Thursday. Rolph did not then feel himself justified in sending any discouraging message by Mackenzie's messenger; but not a long time after that person's departure, he heard from reliable authority, for Rolph's participation in the proposed rising was not suspected, that the warrant had been issued for Mackenzie's arrest, that McNab had started for Hamilton in order to organise the Gore militia, that several regiments of militia had been notified to be in readiness, that the orangemen were to be armed, and the fort to the west was to be garrisoned by the pensioners.

Mackenzie arrived on Sunday, the 3rd of December, at Gibson's house, some three miles from the city. He there learnt that the 7th, the day named for the outbreak, had been changed to the 4th, the following night. The reasons for this step he learned from Gibson. Except in fact, that Mackenzie contended that Rolph was the sole executive, an assertion which Rolph positively denied, there is little differ-

ence in the explanation of this alteration of the date as given in the several narratives relating to it. Following the explanation of Rolph, he reasoned that the city could be more easily taken within two or three days than on the date named, the 7th, as the government was without preparation. Moreover, he accepted as an undoubted fact the numbers represented by Mackenzie as having pledged themselves to take part in the outbreak, viz., 4,000 persons. He was aware that a warrant had been issued for Mackenzie's arrest, and that the number of men the government were arming would at the later date be present in the city, to resist any attack. After consulting with Morrison, it was agreed that the intelligence should be sent to Mackenzie. As it was not known where he could be found, it was held advisable to send this opinion to Gibson. It was considered dangerous to commit anything to writing; consequently a verbal message was sent by one John Mantach to Gibson. Gibson's account of the message was that it was to the effect, in order to save the shedding of blood it would be better for the attempt to be made three days earlier, and if Lount could muster 300 resolute men and take the city by surprise, the attack would be successful.

On the receipt of the message, Gibson, not knowing where to find Mackenzie, sent a verbal message by one William Edmondson to Lount at Holland Landing, some 35 miles distant. When he reached Lount's house, Lount was absent, and the message was given to his wife, who subsequently delivered it to her husband. This message, therefore, passed through several channels. Previous to its receipt Lount and Anderson had exerted themselves to be able to carry out the programme of meeting on Thursday, the 7th, and messengers had been sent to Montgomery's to prepare food for that night. No means were, however, suggested by which Montgomery's charge was to be paid. The outbreak was thus proposed without any arrangement being made for the subsistence of those taking part in it. Lount on his return home, after consulting with Anderson, resolved to act in accordance with the message, and to be present at Montgomery's on Monday,

the 4th, instead of Thursday, the 7th. Notice was given to the men who had volunteered to follow him, to be ready on that day. They were 100 in number. Nearly all assembled at the hour named. In order not to attract attention, they were divided into squads, and passed by different routes. About 40 accompanied Anderson by Yonge street. They were without arms, so they should pass as ordinary persons. Lount proceeded by a more circuitous road, to collect some small parties on the route. Anderson arrived at Montgomery's between eight and nine. The expectation had been formed that arms and ammunition would have been served out to them, and provision generally made for their reception. There were no arms, and food was scarce; dry bread, biscuits and cheese, with whiskey. Recourse was had to the neighbouring houses to supplement their wants. The men were exceedingly dissatisfied; but the appearance of Lount with some 80 or 90 men had a favourable effect upon them.

Mackenzie on his arrival at Gibson's on Sunday, the 3rd, was exceedingly perplexed and angered at the change of day. It is a curious commentary on his assertion that Rolph had been appointed sole executive; that he took upon himself, without consultation with Rolph and on his own responsibility, to disregard the instructions sent him on this point, and to adhere to his own view that the outbreak should take place on the 7th, the time originally named. A messenger was sent to Lount asking him to adhere to the original date. The messenger returned on Monday afternoon with the intelligence that Lount's men were on the road. With this fact admitted by Mackenzie's biographer, it is difficult to explain why more efficient steps were not taken to provide for them when their arrival was expected. We are told, that Mackenzie had a meeting with Rolph at the house of Harvey Price, on the Monday. It is asserted, that Mackenzie recommended that a guard should be placed to prevent communication with the city, and that the four or five score of men who were present should march to attack Toronto that



night. Lount and Gibson opposed the proposition, for the men were worn out by their march, and without arms, and the condition of the city was unknown. We are further told that this golden opportunity was accordingly lost. I will have to make some remark on this view.

Mackenzie now proposed that they should send four men into the city to learn the state of affairs there, and the probability of the success of an attack, and to bring back with them Rolph and Morrison. He offered to be one of the four to proceed there. Anderson and two others, named Shepherd and Smith, agreed to accompany him. The four were mounted, and left Montgomery's between eight and nine. Montgomery's tavern was the property of one of the insurgent party, who had always been a violent politician. He was subsequently tried, and sentenced to death. The tavern at this time had been leased to a tenant named Linfoot, who had taken possession only the preceding Friday. Montgomery had, however, remained in the house, and by this means became identified with Mackenzie's proceedings. The tavern was a well known spot, and stood not far from the site of the present hotel at Eglington.

Montgomery himself, although he might have known that some movement was intended, had not been included in the number to whom the secret of the outbreak had been communicated. His first acquaintance with the fact was the arrival of Lount's messengers, with the request that he would furnish supplies. No arrangement was proposed for payment. Montgomery himself disapproved of the attempt, not having any faith in its success. He declined compliance with what was asked, and advised the messengers to return home. They repaired to Gibson's house, where they remained the night.

Mackenzie remained at Gibson's house on Sunday night. On Monday morning he proceeded to the tavern, and reproached Montgomery for his abandonment of the party, and his neglect in supplying food. Montgomery seems to have taken this abuse pretty calmly. While the altercation was

proceeding, a messenger arrived to say that Rolph would meet Mackenzie at the house of Harvey Price. At the hour named Mackenzie, accompanied by Gibson met Rolph. They found him greatly dispirited at the defeat of Saint Charles. He regarded the Lower Canada rebellion as completely quelled, and considered that the success of the troops had entirely changed the position of the insurgents in Upper Canada, and that at the best they could look for nothing more than some temporary advantages, which would assume no permanent desired result. To his mind there were but two courses open : the abandonment of the attempt, or immediate action. He informed Mackenzie that he had sent a messenger to Lount with the information that the government was in no way on the alert, and that Lount should govern himself accordingly. Mackenzie would not listen to any abandonment of the undertaking. Rolph then urged that no time was to be lost. For two hours the question was discussed. Finally it was agreed that they should be governed by the action taken by Lount. Mackenzie and Gibson accordingly proceeded to an old structure known as "Shepherd's mill," which had long been a rendezvous for the extreme members of the party of the neighbourhood. They found there several local insurgents engaged in casting bullets, and had not long been there before news was brought that the northern party, under Lount and others, was on the march. On their arrival, pickets were placed on the road, formed in three lines, the centre being opposite the tavern ; and Mackenzie, as has been said, rode down Yonge street towards the city, to learn the condition of the defence that had been taken.

In Toronto, Fitz Gibbon had assumed his duties as acting militia-general on Monday, the 4th, and had busied himself in endeavouring to awaken the inhabitants to what he held to be the dangers of the situation, and the necessity of preparation for defence. From the information he had received in connection with the news from Lower Canada that the rebellion had broken out, he conceived the attempt would be

made that night. He resolved to remain himself at the parliament buildings with some friends, who had volunteered to watch with him. About ten o'clock he proceeded to government house, to confer with the lieutenant-governor, when he was told by Mrs. Dalrymple, the lieutenant-governor's sister, that her brother had retired to bed. Subsequently, however, in his dressing-gown, he joined Fitz Gibbon. He still adhered to the opinion that there could be no rebellion, and retired to his room. On reaching his office, Fitz Gibbon was informed by a person who had entered the city by Crookshank's lane, of the approach of the insurgents. Among those who were watching with him was a young law student, who subsequently became one of the most eminent jurists of Canada, Mr. Hillyard Cameron. He was despatched to ring the college bell, but was induced by one of the masters to desist, owing to his want of belief in the necessity of the proceeding. Fitz Gibbon himself, accompanied by two young men, the three being mounted, proceeded up Yonge street to examine personally as to the truth of the report, and reached the present suburb of Rosedale. They found everything quiet; so desiring the two young men to ride forward to learn what was happening, Fitz Gibbon returned homewards to urge on the organisation of defence. On reaching a certain point of his journey, he met two mounted men: one, alderman Powell, of the council, the other a Mr. Macdonald, engaged in business in the city. They had heard of the approach of the insurgents and were proceeding northward to learn the truth of the report. Both were known to Fitz Gibbon as strong supporters of the government, and he considered the matter to be safe in their hands.

The passage of the insurgents southward from Holland Landing necessarily caused great excitement, as many of them were known. A meeting was held in the house of colonel Moodie, who lived to the north of Richmond Hill, to consider the course advisable to be taken. It was determined that the intelligence should at once be made known to the lieutenant-governor. The messenger who was despatched, a

Mr. Drew, was within a short distance stopped and seized by the insurgents. The news reached the loyalists at Richmond Hill, and colonel Moodie resolved to proceed in person to Toronto. Among those who accompanied him was captain Stewart, of the navy, and a Mr. Brooke. They approached Montgomery's tavern, and had passed the first picket. On coming opposite the tavern, they were ordered to halt. The party seems to have consisted of six people, but Moodie and Stewart were in front, with a third person whose name is not mentioned. Moodie said that they must gallop through the guard, whatever the result at this time. Moodie and Stewart found themselves alone. "Never mind," said Moodie, "push forward ; it is all right yet." They were, however, brought up by the guard, and pikes and bayonets were presented before the horses' breasts. Moodie asked who it was that was stopping them in the king's highway. The reply was, "You'll know that in time." Moodie then fired his pistol, upon which three guns were discharged, when Moodie exclaimed, "I'm shot, I'm a dead man." He was then carried into Montgomery's tavern. Soon afterwards Mackenzie came into the house, when he asked for Stewart. Moodie survived but two hours.\*

Brooke succeeded in forcing his way through the guard, and galloped towards the town, a circumstance which led to important consequences.

As Mackenzie with his companions left Montgomery's, they met a party of the insurgents returning to Montgomery's with Brock and Bellingham, the young men who had been despatched on scout by Fitz Gibbon. Mackenzie and the others rode onward. As they reached Gallows hill, they became sensible of the presence of two mounted men advancing towards them. The night was dark, for there was no moon. Mackenzie, who was the leading horseman, rode up, and presenting his pistol ordered them to halt. Powell he knew from his connection with the council, and Macdonald could not have been a stranger to him. Mac-

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\* [Narrative of captain Stewart, Royal navy. Lindsey, II., p. 78.]

kenzie explained that a rising of the people had taken place, and by all accounts, spoke at some length, to the effect that it was necessary that the fact should not be known in Toronto, and that the two must consider themselves as prisoners. In answer to an inquiry, they informed him they were unarmed. Mackenzie subsequently stated that he told them, as they were his townsmen and men of honour, he would not question their words. Powell on his part declared that nothing of the sort was said, and in any case no search was made for concealed weapons. The two were consigned to the custody of Anderson and Shepherd, and the four rode towards Montgomery's tavern. Mackenzie continued his journey, according to Mr. Lindsey, with one companion. Mr. Dent, however, describes the number as three. Powell had been given in charge to Anderson, and Macdonald to Shepherd. The first couple rode some ten yards in advance of the second ; they had not proceeded far when a horseman was seen advancing, and Anderson challenged him to stop, asking him who he was. The man replied, "Thompson." This horseman was in reality Brooke, who has been mentioned as forcing his way through the picket. Upon which Powell called out, "Then, Mr. Thompson, I claim your protection, for I am a prisoner." Knowing Powell he had recognised his voice, and addressing him by name acquainted him with the fact that the rebels were advancing on the city and that colonel Moodie had been shot. On Brooke spurring his horse to escape, Anderson and Shepherd made an attempt to fire upon him, but failed to do so. Brooke, however, did not reach the city for an hour afterwards, when the bells were ringing and the inhabitants preparing for defence.

The intelligence was not reassuring to Powell. He had two loaded pistols with him, which he had obtained from the high bailiff. Once or twice he tried to fall back, and in so acting awoke Anderson's suspicions, who threatened to shoot him if there was any attempt on his part to escape. They were approaching Montgomery's, and Powell felt the decisive moment was come, if any attempt at escape was to be made.



Pulling up his horse, and before the movement could be noticed by Anderson, Powell discharged one of his pistols in his back. Anderson was shot in the neck, the spinal cord being severed. Death was immediate. He neither spoke nor moved, but fell from his horse. Powell wheeled round and galloped to the south. McDonald followed his example. Shepherd was not well mounted ; he discharged a shot after him, and soon abandoned the pursuit, as McDonald in his flight rapidly gained upon him. Accordingly he returned to Montgomery's. As Powell was descending Yonge street he passed Mackenzie, who called to him and warned him not to proceed. While Powell paid no attention to the summons, Mackenzie fired at him, but the shot missed. Powell turned towards Mackenzie, and placing the muzzle close to his breast, fired ; but there was only a flash in the pan. McDonald now came up, but not having the determination of Powell, was seized, and again sent back under guard to Montgomery's. Mackenzie was now alone. Shortly afterwards he returned to the tavern, and had not proceeded far when he came upon the dead body of Anderson.

Powell reached the Davenport road, which he followed for some distance, when he abandoned his horse and hid himself. Not hearing any pursuers after him, he ran across the queen's park and descended the college avenue, making his way down the present Simcoe street to government house. The lieutenant-governor had gone to bed. He had heard the ringing of the college bell, but having been told it was by the orders of Fitz Gibbon, he considered the alarm as uncalled for, and had fallen asleep.

On Powell reaching government house, there was some objection to disturbing the lieutenant-governor, but as he persistently represented the urgency of the case, he was admitted to his bedside. Sir Francis Head had even then some difficulty in believing what was told him ; he arose, however. As Powell was descending the stairs, he met colonel Fitz Gibbon. It was the second visit on that night. The whole details of the revolt were circumstantially given, and sir

Francis, consigning his family to friends, to be conducted to a place of safety, made his way to the city-hall.\*

On reaching the city-hall, amid the sounding of bells, many of the loyalist population were making their way to the place of rendezvous. The number appears to have been 300, and a motley appearance they presented. They included the leading men of the city. Chief-justice Robinson, judge McLean, and judge Macaulay were there, with muskets on their shoulders. Among them also was the solicitor-general Draper, afterwards chief-justice, who in telling the story was wont to say that the next man to him was a negro. Although possibly there was much diversity of condition, they had one feeling in common. They were earnest in purpose, devoted to the cause they had embraced, resolute, not there for show, and prepared to make a good stand in defence of the city. Moreover, they had a commander who had gained his laurels in many a field, and there cannot be a doubt that had they been called upon, they would have given an excellent account of themselves. Captain Strachan, John Beverley Robinson, afterwards the lieutenant-governor of Ontario, and Henry Sherwood were appointed aides-de-camp, and were kept active throughout the night. Despatches were sent to MacNab at Hamilton, and to the commandants of militia in the Midland and Newcastle districts. The volunteers remained on duty at the city-hall until daybreak, every minute expecting the attack of the insurgents; but sunrise came, and no movement had been made. A picket of thirty men under judge Jones had also taken post to the north of the city, so that in case of any hostile attempt there would be no absolute surprise.

As morning dawned, according to the means at Fitz Gibbon's disposal, the volunteers had been formed by him in platoons, and a 6-pdr. gun mounted in front of the city-hall.

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\* The fact is admitted in his book, "The Emigrant," chap. VIII. The family of the chief-justice, with his own family, was placed on board a steamer, "The Transit" in the harbour for protection in case the city should be taken by the insurgents.

The rifle company had some pretence to discipline. It had been formed with the consent of sir John Colborne in 1834, on the theory that the young men so drilled would be more fitted for commissions in the militia. There had been only 70 rifles available, so the company had been limited to that number. During the summer months of the three preceding years they had been drilled twice a week, and could certainly claim to be efficient as a volunteer battalion. The night had been passed in great anxiety. Mackenzie's numbers had been much exaggerated, and an attack by him had been momentarily expected. If his strength was such as it was represented to be, it was plain to all present that the means of defence were singularly deficient. Moreover, there was much speculation as to the extent to which the outbreak would be sustained in the city. The opinion expressed by the lieutenant-governor, although re-echoed by those immediately about him, that there could be no rebellion, was not shared by all who heard it. It was known that there was a strong party in the city who to some extent at least sympathised with the political opinions of Mackenzie, and there was by no means a feeling of confidence as to the position those composing it would assume, if Mackenzie appeared sustained by a powerful body of armed men.

Rumours had reached the city that the insurgents were felling trees, and fortifying their position. Accompanied by the lieutenant-governor's aide-de-camp, captain Halkett, of the guards, and by four volunteers, Fitz Gibbon early in the morning proceeded to make a *reconnaissance* of the position. Finding that no precautions for defence had been taken, and the numbers were less than had been represented, Fitz Gibbon suggested that the insurgents should be immediately attacked. There were now 500 men assembled in the city, and, with the 6-pdr., he felt that they could be dispersed with little loss to the attacking party. The lieutenant-governor was obdurate in his refusal to listen to the proposition. "No, sir," he said, "I will not fight them on their ground; they must fight me on mine."

In accordance with this view, it was determined in the forenoon to send some representatives of the government to the leaders of the outbreak, and to enter into negotiations. The plan is said to have originated with the attorney-general, only with the desire of gaining time. On the other hand, it is just possible, from the lieutenant-governor's known confidence in himself, that he sincerely believed that the mission would be attributed to merciful motives, and might succeed in leading those who had assembled to disperse. He entrusted to sheriff Jarvis the execution of the design. Jarvis's first impulse was personally to accept the mission, and present himself with the flag of truce ; but he was counselled against so acting from his known support of the government, and from the unpopularity in which he was held, to some extent owing to his professional duties. Meeting in the street Mr. Harvey Price, a strong opponent of the government, he asked him to undertake the duty. Price at once declined ; he was without influence with the insurgents, and the proceeding might subject him to suspicion. He suggested an application to Robert Baldwin, to Rolph or to Bidwell. Acting on this suggestion, Jarvis waited upon Baldwin on the part of the lieutenant-governor, and communicated the request that he should proceed to the insurgent camp with the view of preventing bloodshed. Baldwin was a man of very high character, above all suspicion of complicity in the outbreak, and it was supposed that his presence might act beneficially on these troubled waters, and lead to a pacification. He accepted the duty, on condition that he was accompanied by a suitable person, and Mr. Bidwell was named by him. Mr. Bidwell when appealed to, unhesitatingly declined to intervene. Recourse was now had to Dr. Rolph, who was not suspected of the least participation in the movement. On the proposal being made to him to accompany Baldwin he refused in the first instance to comply. He could not but have seen in what a false position he would be placed, by appearing among the insurgents as the emissary of the lieutenant-governor. He expressed the opinion that the con-

stitution was suspended, and the lieutenant-governor had no authority to take the step he purposed. Rolph was made to understand by the sheriff that Bidwell and Price, by their non-acceptance of the duty, had subjected themselves to grave suspicions; and similar hesitation on his part might also suggest strong doubts concerning himself. Finally, Rolph consented to act. At about one o'clock Baldwin and himself, accompanied by a carpenter named Carmichael, bearing a flag of truce, rode up Yonge street. On reaching Gallows hill, about a mile to the north of Bloor street, they came upon the body of the insurgents who had there established themselves.

There had been great uncertainty with the men who had assembled at Montgomery's as to the course they should pursue. The death of Anderson had greatly depressed them, while the ringing of the city bells had informed them that Toronto was prepared for resistance. Additions to their strength had continued from daybreak, and the number present had reached between 700 and 800. The question of food had ceased to be a difficulty, as Montgomery had eventually agreed to undertake the duty of providing it. The main matter for consideration was the course that should be followed. The chief embarrassment which had arisen from the death of Anderson lay in the appointment of a successor to the military leadership. Lount had refused to accept this responsibility. Finally, Mackenzie offered to charge himself with the duty of leading them forward. The insurgents were consequently divided into two bodies, one of which, under Lount, was to descend Yonge street; the second, directed by Mackenzie, was to pass by the College avenue. On reaching Queen street, both divisions were to take a position in front of Osgoode hall. The prisoners seized, between fifty and sixty, were placed under the charge of Gibson, to be forced to accompany the main body in its march on the city. It was then understood that the advance into Toronto should take place at two o'clock; but before that hour Baldwin and Rolph arrived with a flag of truce.



When the two envoys had passed the toll-gate, they found a number of the insurgents established at Gallows hill, which they had reached on their march from Montgomery's. Mackenzie had entered the house of Mr. Howard, the postmaster, and had arbitrarily called upon Mrs. Howard to provide meals for his followers. A halt had been made, and the men were scattered over the ground. It was at this point Baldwin and Rolph communicated the message with which they were charged.

There is so much contradiction as to what took place on this occasion, that it is not possible to state with positiveness what happened. On one side it is affirmed that Mackenzie was not present, and it was Lount that was addressed. No record exists of what was precisely said. The purport of the message, however, was, that the lieutenant-governor, desirous of avoiding bloodshed, would grant an amnesty if the insurgents would disperse and return to their homes. The result of the conference was to the effect, that no reliance could be placed on the lieutenant-governor's word, and that the proposal must be reduced to writing. Baldwin and Rolph, accordingly, agreed to return and obtain a signed document, Lount undertaking not to advance farther than the toll-gate.

On the other hand, it is affirmed that the envoys were received by Mackenzie, who answered that what was sought was "independence and a convention to arrange details," and that the answer of the lieutenant-governor must be delivered in writing within an hour. Sir Francis Head bears out the statement that Mackenzie's demands should be settled by a national convention, and that he insolently added that he would wait until two o'clock for any answer, which in one word was "never."

Lount before the committee on treason, the 13th of December, testified "that when the flag of truce came up Dr. Rolph addressed himself to me . . . he gave me a wink to walk on one side, when he requested me not to heed the message, but to go on with the proceeding." He added that Mackenzie who was present asked that the message

should be reduced to writing. Evidence was adduced that neither of the parties with their flag of truce dismounted, but it was quite possible for Rolph without dismounting to act as Lount stated.

On the return to Toronto, sir Francis Head refused to reduce his proposition to writing, or hold further communication with the insurgents. This decision was made known by sheriff Jarvis. Such as it was, Baldwin and Rolph felt it incumbent upon them to communicate it. On reaching Bloor street, they found the insurgents extended east and west of the gate, and they announced the end of their mission. Rolph requested Baldwin to wait a few minutes, and he held a private conversation with Lount and Mackenzie. There are contradictory statements as to what was said on the occasion. Mackenzie contended that Rolph advised the insurgents to wait until six o'clock, and enter the city when it was dark. On the other hand, it is said that Rolph advised them in the words, "wend your way into the city as soon as you can."

It is really not important what form the advice of Rolph took ; indeed, the question was only raised in the transfer of blame on the failure of the enterprise. What is to be considered is that any such message should have been given at all. Rolph's conduct more partakes of what we read of as oriental duplicity, than any act we meet in Canadian history of public men of his position. Implicated as fully as Mackenzie was in the insurrection in the most secret conclave where plans were formed, he accepted a trust from the government against which he was plotting. There was no middle course : he was either false to the government, or untrue to the cause he had embraced ; in reality, he was guilty of treachery to both. The analysis of the motives which led to this dishonourable proceeding is not difficult to make. When applied to in the first instance by sheriff Jarvis, he declined the commission. Evidently, it was the fear of being suspected of being in complicity with the movement that led to its acceptance. Knowing that he was to accompany Bald-

win, he doubtless trusted to the chapter of accidents that he could pass safely through the ordeal. His appearance as the accredited agent of the government is admitted "to have thrown a damper on the zeal of the men." They fancied their cause must be desperate, when they saw Rolph, whose name had been freely used by Mackenzie in the course of his agitation, appearing with the offer of amnesty. When on the ground, he doubtless perceived the surprise his presence had caused, and if this feeling were entertained by him, it explains his secret advice "to proceed." The question of the date when it was given has been raised in vindication of Rolph; but his mission surely could not be considered to have been completed before his return after the second interview, when his report was made to the lieutenant-governor. It is impossible to avoid the painful conclusion that Rolph was guilty of perfidy, fortunately without a parallel in our history.

Sir Francis Head, owing to his refusal to place his proposition in writing, has subjected himself to the imputation that the mission was an attempt on his part solely to gain time. He certainly behaved without the quiet dignity which should distinguish the character of a British governor. His own account of this peremptory refusal to act in a way to give weight to his verbal engagement subjects his conduct to the strongest suspicion. Doubts may well be raised of his earnestness of purpose. Whatever his objection to the convention, his duty was plain to have given his signature to the offer he made of an amnesty, if the insurgents would disperse. That he failed to do so was only a continuance of his unfortunate policy throughout the crisis.

When it was known that no accommodation could be hoped for with the insurgents, Fitz Gibbon proposed to form a picket, and despatch it up Yonge street to watch the proceedings of this body of men threatening mischief. Rumours of a most exaggerated character were running through the city. Mackenzie's force, which on this day reached its maximum of 750 men, was reported to consist of thousands, and

when they might enter the city, no one could tell. Fitz Gibbon's picket was conceived with the design of bringing the earliest intelligence of any hostile movement. The lieutenant-governor strongly opposed it, on the ground that they had not force enough to defend the city and that not a man was to be sent out of it. Fitz Gibbon, however, had not passed through the war of 1812, without understanding that the precaution he advocated was indispensable. Twenty-seven volunteers were obtained, under sheriff Jarvis, and they were posted on the east side of Yonge street, a little above the present McGill street, at that time open country. Having given the order, Fitz Gibbon felt bound to report to the lieutenant-governor his disobedience of orders, to receive a reproof, which was not at all events very severe. The effect of his foresight will hereafter be seen.

On the departure of Baldwin and Rolph, an attempt was made to effect some organisation of the motley crew gathered to attain the momentous result of changing the constitution of Upper Canada. Some rations were served out, and arrangements were made for the entry into the city at dusk. It was at this time Mackenzie committed the extraordinary act of burning Horne's house, situated on Yonge street, some short distance above Bloor street. Horne was the assistant cashier of the bank of Upper Canada. The explanation has been given that this house had become a rendezvous for spies; that Horne himself had reported that the insurgents were not in sufficient force to cause alarm; that a Miss de Grassi had passed the ground occupied by the insurgents and had brought back this news; moreover, that the act of burning the house was accidental, caused while a search was made for any correspondence with the government, during which the stove was overturned. If we are to credit the evidence given, the act was deliberate; further, that Mackenzie desired to burn the house of sheriff Jarvis, and that it was only the intervention of Lount that prevented the act.

Rolph, on his side, by all accounts, fully expected that he would be shortly followed into the city by the insurgents.

He is accredited with having endeavoured during the few hours at his disposal to organise some resistance on the part of the residents in the city who shared his opinions, so that on the appearance of Mackenzie he would be met and sustained by additional sympathisers. There is, however, no proof that any effort of this character was made, and probably no such movement took place. Owing to the non-arrival of Mackenzie and his followers, Rolph sent a medical student named Wright, a messenger on whom he could rely, to learn the cause of delay. This person found that Mackenzie was not with the main body, but had gone to Montgomery's. Accordingly he followed Mackenzie to the tavern, and found him engaged in a dispute with a man, whom he evidently regarded as a spy. Mackenzie recommended that they should ride to where Gibson and Lount were. As they were proceeding in company to the main body, they met several of the insurgents returning to the tavern. These men explained to Mackenzie that they were going back for supper. Mackenzie tried to persuade them to return, and remained behind to expostulate with them, recommending Wright to ride on to Lount and Matthews. Wright rode some distance in that direction, expecting to be followed by Mackenzie, but not being joined by him he returned towards Montgomery's. He found Mackenzie in the same spot. He then told Wright that they would be in the city in half an hour. Wright now rode to the main body. When he reached Gallows hill he was notified by Lount and Matthews that the men declined to enter the city when it was dark, but would proceed there at daybreak. Wright returned to town, and reported to Rolph this information in all its uncertainty and contradiction. Mackenzie now addressed himself earnestly to those present to induce them to commence the march. He told them of the message he had received that the city was defenceless, and a large body of men were there prepared to join them. His address, made with his usual energy, met with a response, and a general assent was given to proceed in the enterprise. About six o'clock, the organisation was made for the start.



Subsequently Mackenzie narrated the representations he had made. He told his hearers that sir Francis Head could muster only 150 men and boys to defend the place; that he himself was in such alarm that he had placed his family on board a steamboat; that 600 men were ready to join them on their arrival, and they had only to go forward to drive the foreign government forever from Upper Canada.\*

The question arose as to what should be done with the prisoners. It was finally decided that they were to be left in charge of Gibson, with a force sufficient to prevent their escape. A little after six, the insurgents commenced their march. They have been estimated at 700 men. A few riflemen were in front; those armed with pikes followed, succeeded by a certain number with old muskets and shot-guns. Half the body had simply cudgels and stakes. Lount was at their head. Mackenzie, by the side of the column, rode a dark bay horse, which had been seized when its rider had been made a prisoner. No opposition was given to their advance until they approached the garden of Mr. William Sharpe. Its situation was the corner of the present Maitland street, to which the picket had been removed. As the column advanced, the sheriff gave the word to fire. The picket discharged their muskets, and struck by a panic the whole of the 27 turned and fled. In vain the sheriff tried to re-form them, but he found himself alone, and had to follow their example.

The discharge, which had the effect of killing one man and wounding others, in some instances seriously, two of the cases, indeed, afterwards proved fatal, threw the whole column into disorder. An order was given to return the fire. Those in front discharged their pieces at random, but their fire was entirely ineffective. An order was given to those in the rear also to fire. In order to admit of this proceeding, Lount and his men threw themselves on their faces.

This movement led to the opinion that they had fallen in the attack, and the whole of the insurgents, struck with

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\* [Navy island narrative, p. 13.]

terror, broke in utter confusion and fled towards the toll-bar as fast as they could move. There was some attempt to rally them, but no argument could induce them to advance that night, although when out of danger they declared their willingness to proceed to the attack by daylight.

During the whole of Tuesday the 5th, expectation had been strong in the city that the force of the government would be increased by volunteers. There was no arrival, however, until nine o'clock, when a small party of the armed militia came in from east York. At eleven at night, to the great delight of sir Francis Head, as he himself records, sir Allan MacNab arrived with 60 of the men of Gore, with the information that more would arrive. Sir Allan MacNab was one of the handsomest men of his day, of undisputed courage, and his commanding presence had greatly impressed the lieutenant-governor. He was, moreover, the speaker of the house of assembly. Sir Francis Head had placed more confidence in him for the defence of the city, than even in the reinforcements he had brought. Not long afterwards a spy arrived, who reported that many of the insurgents looked upon the attempt as hopeless, and had left for their homes.

Throughout the city during the night the same watchfulness was maintained, but with increased confidence. On the other hand, Rolph and Morrison, when they heard of the flight of the insurgent force, abandoned all hope of success. They sent a messenger to Mackenzie acquainting him with the arrival of reinforcements and the general state of affairs, and advised an immediate abandonment of the enterprise. The leaders to whose attention the subject was brought by Mackenzie, agreed with him that it was too late for them to renounce what they had undertaken. The government was acquainted with their participation in the outbreak, and they could not hope to escape the pursuit, which would be unceasingly carried on with all possible vigour. But the information was kept from the general body; nevertheless, about 150 deserted during the night. On Wednesday morning the number that remained was estimated as not exceeding 600.

On Wednesday morning, the 6th, messengers were despatched to Dr. Duncombe in the London district to bring together the men who had agreed to sustain the movement, and to attempt all that could be done there to assist the outbreak in Toronto. On their departure, Mackenzie and Lount with a party proceeded to the west at Dundas street, and at the Peacock inn, about four miles from the city-hall, took possession of the mail on its arrival from the west. It is not, I conceive, with any justice to Mackenzie, as many wrote at the time, that he can be described as a mail robber. The proceeding was taken in the interest of the operations he was carrying on ; as an incident in the outbreak. His object was to learn the movements of the government, and he opened the letters to obtain the information he sought. Many private letters which had no bearing on the event experienced this fate, and when there was money found, Mackenzie took possession of it. It is equally unfair to him to suppose that in this course he had his private interest in view ; what money he obtained was expended in the maintenance of the insurgents. Mackenzie had many and great faults, but his integrity was never assailed. In the "Emigrant" in 1846, sir Francis Head stated that the object of the outbreak was to plunder the banks, and abscond to the United States. There could not have been half a dozen people in the province who believed this assertion. No one can doubt that Mackenzie was actuated by political and personal feeling in his desire to subvert the government ; which sentiment was the most strongly entertained it would be difficult to determine, but that he entered into the rebellion from motives of personal aggrandisement cannot for a moment be admitted.

While Mackenzie was examining the mail bags at the Peacock tavern, according to Gibson, news was brought of the arrest of Dr. Morrison, and that Rolph had left the city to ride westward. This news came from so certain an authority that it could not be doubted. It was not communicated outside of the circle of the leaders ; Mackenzie,

Lount, Gibson and Fletcher alone heard of it. They returned to Montgomery's much depressed. A contrary story has been told that Mackenzie, ignorant of Rolph's flight, sent a messenger to ask that notice might be sent of the hour appointed for the attack. The messenger never returned. However, during the Wednesday, information was brought that it would be made the following day.

The arrival of the company under MacNab and the intelligence that additional volunteers were to arrive gave heart to the lieutenant-governor to depart from his passive policy. A council was held late on the Tuesday, when it was resolved to arrest Dr. Morrison. He was made a prisoner in Queen street about 10 o'clock, when visiting a patient. The arrest was seen by the medical student Wright, previously mentioned, who immediately gave the information to Rolph. Rolph at once felt the danger he was in. He had been deeply compromised in the rebellion, and he could only expect to be dealt with as an insurgent, and to be subjected to the full rigour of the law. All hope in the success of the outbreak had passed away, so that his only safety lay in flight. One of his horses was saddled and Wright mounted it, proceeding westward along Queen street. Rolph followed on foot, walking as if on an ordinary occasion. He had not gone far before he met the chief-justice and two of his sons. A cold bow was exchanged, and Rolph proceeded to the corner of Dundas street, where he mounted and rode forward. About 12 miles from the city, on approaching the Credit, he met a volunteer company. The commanding officer knew Rolph and his opinions. Accordingly he was impelled to ask Rolph how it was he was so far from the city. Rolph produced a letter from his brother-in-law, Mr. Salmon, to the effect that Rolph's sister was seriously ill and asking him to visit her. The explanation was thought to be satisfactory and Rolph was allowed to proceed. The officer's suspicions were, however, aroused, and two of the party were sent after Rolph, with instructions to bring him back. He is represented on his return to have been much agitated, and to have

trembled visibly, believing, possibly, that he would be marched back to Toronto. While he was in this trying position Dr. Mitchell, of Dundas, appeared. He had been a student of Rolph. The doctor's admitted skill and knowledge, and his courteous treatment of the students had with many created a feeling of positive affection towards him. Mitchell immediately scouted the idea of detaining him. He himself was a known loyalist, so that his influence prevailed. He even persuaded Rolph to take his horse, as it was fresher and more capable of undertaking the long journey before him. Riding to Wellington square, Rolph sought refuge in the house of a Mr. Davis, a man of extreme opinions on the same side, whose family, when Rolph lived at Dundas, he had attended. Declining to stay there the night, after an hour's rest and having obtained a fresh horse, one of Davis' sons accompanying him as a guide, Rolph rode throughout the night; early the next morning he reached Queenston, and crossed to Lewiston. He was now out of danger, for he was in the territory of the United States.

During the whole of Wednesday volunteers from east and west arrived at Toronto to sustain the government, and at last a force of 1,200 men was available for an advance against the insurgents. It was now resolved that the attack should be made the following morning, and it was felt that the safety of the province depended upon its success. Sir Francis Head had determined that MacNab should be placed in command; he had already been named commandant of the militia in the home district. Fitz Gibbon, feeling the injustice to himself in being thus superseded, remonstrated against the appointment as a personal wrong. He argued that he had been colonel of militia before MacNab, whose military knowledge was very limited, had held any rank; and that for three days and two nights he had been unremitting in his endeavour to place the city in a state of defence.

A council was being held at archdeacon Strachan's, and it was there Fitz Gibbon heard of the intention. On his remonstrance, a long discussion followed. Hagerman, the



attorney-general, supported the proposition on the ground that MacNab had received a promise to that effect from the lieutenant-governor. The council separated without coming to any decision. In the morning, however, sir Francis informed Fitz Gibbon that MacNab had released the lieutenant-governor from his promise, and that the command would be conferred on the colonel. The original proposition can only be regarded as an instance of sir Francis Head's strong prejudices, and his favouritism in the discharge of his duty.

Fitz Gibbon early commenced the organisation of the volunteers he was to command in the field. They numbered nearly 1,200 men. According to Fitz Gibbon, MacNab had prepared to attack the insurgents at three in the morning. The plan was strongly opposed by Fitz Gibbon, as it was impossible to organise the various bodies of volunteers between whom there was no connection, for the start would have to be made at once. Besides, a night attack can be successful only with highly disciplined troops.

About noon the advance was made. The centre of nearly 700 bayonets was under the leadership of MacNab. The right wing was commanded by colonel Samuel Jarvis; the left by colonel Chisholm, of Oakville. Judge McLean is, however, named as having really directed the operations. Two 6-pdrs. of the militia artillery under major Carfrae also accompanied the force. While the main column ascended by Yonge street, the right division passed by the fields to the east, and the left wing ascended College avenue. The three divisions were to converge at Montgomery's. The order to advance was given by the lieutenant-governor in person. "The only command," Fitz Gibbon wrote, "he gave till the action was over." His orders then were to burn Montgomery's tavern and Gibson's house.

Archdeacon Strachan, with other ministers of religion, accompanied the force. As shots were exchanged they

withdrew to the rear. Judge Macaulay was placed in command of the militia left to guard the city.

Although the 7th of December the day was remarkably fine and warm, with bright sunshine. Moreover, the volunteers had not gone forth to the struggle in any gloomy spirit. Two bands accompanied the column, and kept up the British tradition of marching to battle with the pomp and circumstance of war, such at least as the city could then furnish. The scene, therefore, was most animating. Along Yonge street the windows were thronged with spectators, mostly women, who waved their kerchiefs and uttered their gentle sympathy of applause. The men were on the house tops, and cheered with good heart as the column marched forward, through what at the time constituted the street. All who were loyal to British connection were present to see the troops pass. Those whose sympathies were otherwise had remained within their homes.

The column passed through the gate and reached Gallows hill, when it came within the ken of the picket posted by the insurgents, south of Montgomery's. The men without delay gave notice that the decisive hour had come.

Van Egmont, who was to command the insurgents in the field, had arrived early in the morning. After the breakfast, at which Mackenzie, Lount, Gibson, Silas, Fletcher and Montgomery were present, a council of war had been held. Mackenzie advocated an immediate march on the city. All present strongly opposed the proposition. There were not more than 500 of the insurgents present, for several had even on that day abandoned the attempt. The majority were poorly armed; while it was known that the government had received a large accession to its strength, and that the volunteers were properly and fully equipped. They were also for the most part men of substance, who had taken the field to defend with the cause they represented their property and well being. Reinforcements to the rebel ranks were looked for. As usual, in the records of this most trying time, we have the most contradictory accounts. Mr. Lindsey tells us

that Van Egmont seconded Mackenzie's plans ; that at the council of war new officers were elected ; that Gibson was appointed to a company, but left his post the moment the government column appeared in sight. Gibson's MS. records that Van Egmont not only differed with Mackenzie, but declared his plan to be "stark madness," and that a violent quarrel between them took place.

Information had been received that the advance would be made that day, and in view of the reinforcements so anxiously expected by them, it was the policy of the insurgents to delay the attack. To effect this result, sixty men were detailed under Peter Matthews, a farmer of Pickering, who afterwards paid for the attempt by the penalty of his life on the scaffold. This insignificant force was directed to proceed to the Don bridge, on the east of the city, there to burn the bridge, in order to cut off the communication with the city, to intercept the mail, and to create belief in a threatened attack, in order to attract the volunteer force to that spot, and so divert the movement proposed against Montgomery's.

There were at this time possibly 400 men present about the tavern, half of whom only were armed with rifles, old muskets and pikes. The hoped for reinforcements had not arrived. The men on the ground were formed for Van Egmont's inspection. It was no lengthened ceremony. At its close the insurgents hung about the premises as if without a purpose. The news brought by a scout that the troops were advancing up College avenue, at first obtained but little attention. Shortly afterwards the pickets on Yonge street announced their arrival at Gallows hill. By this time the music of the bands was plainly heard and the glitter of the bayonets in the sun could be perceived. There could be no doubt this time of the fact. Mackenzie and Van Egmont went forward to reconnoitre ; it needed no great military experience to take in at a glance the powerful force marching towards them, which both must have felt was overwhelming against their ill-armed limited number. The two men rode

back to make what disposition was possible to meet the attack, which it was plain would be immediate.

There was some wooded land four or five hundred feet west of Yonge street, about half a mile south of the tavern ; 150 men were posted here, while 70 or 80 took ground in the field to the east. Those without arms remained by the tavern, for they could render no service. The volunteers were rapidly formed and commenced firing. The two guns were brought into action against the woods. Some attempt was made to return the fire. At this moment the western volunteer column appeared on the ground. It was the signal for a general retreat of the insurgents in the greatest disorder. The guns were then moved forward and discharged against the tavern, through which two round shot passed. By this time the prisoners had been released. Gibson, in whose charge they were, had taken them out by the back door of the building, and, despairing of success for the insurgents' cause, had given them their liberty.

The whole affair, after the formation of the troops, lasted little longer than a quarter of an hour or twenty minutes. Within that time the insurgents were flying for their lives in all directions. The loss was one killed on the field\* and several wounded, eleven more or less seriously, four of whom died in the hospital. On the side of the troops no one was killed or wounded dangerously.

The leaders fled with the men. The prisoners who were

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\* The man killed on the insurgents' side was one Ludwig Wideman, 56 years of age. Senator Gowan, who took part with the volunteers from the night of Monday, the 4th of December, to the action of the 7th, informs me that as he stood in the ranks at Montgomery's, his right hand man was a coloured man of the name of William Bowie, while to his left stood Mr. Clarke Gamble. They had noticed a stump before the woods, from which an occasional puff of smoke shewed that a rifle was being discharged by some one behind it. They accordingly watched for the marksman, both Senator Gowan and Gamble, but with no success ; Bowie also kept his eye on the stump. On a sudden Wideman raised his head above it to take a *reconnaissance* when Bowie fired. The head disappeared, for the ball had passed through it. No more shots came from this direction, and Bowie claimed to have shot him. After the affair, his body was found with the wound through the brain.

taken were brought before sir Francis Head. He had accompanied the column, and was now in front of the tavern. He pardoned them and ordered their release. He relates himself that it was necessary that he should mark by an act of stern vengeance the important victory that had been achieved,\* so he ordered Montgomery's tavern to be burned, as having "long been the rendezvous of the disaffected," the floor of which had been "stained with the blood of colonel Moodie." His next act was to order that Gibson's house, some three miles distant, should be burned. Forty men started up Yonge street to carry out the order, when they met Fitz Gibbon, with captain Halkett, the aide-de-camp, and others, who were returning from the fruitless pursuit of Mackenzie. On hearing their explanation, Fitz Gibbon asked if they were certain that such was the order, and when he was assured that it had been distinctly given, the men went on. On his joining the column, he learned that colonel Strachan had been despatched to bring back the detachment, with the counter orders that Gibson's house was not to be burned. The detachment ordered on that duty was overtaken and marched back. When, however, Fitz Gibbon appeared, the lieutenant-governor gave positive orders that Gibson's house should be burned immediately, and the militia be kept on the ground until the order was carried out. Sir Francis Head, in his despatch of the 19th of December, described the circumstance, to put the best light on his language, in equivocal terms. "The militia," he said, "advanced in pursuit of the rebels four miles, till they reached the house of one of the principal ringleaders, Mr. Gibson, which residence it would have been impossible to have saved. It was consequently burned to the ground." Afterwards, when colonel Fitz Gibbon had placed on record what happened on the occasion, a note was added by Head, "By my especial order."

Sir Francis rode a short distance up Yonge street, when several parties were arrested, but they were released. Among them, it was said, were some loyalists. On his

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\* "Emigrant," p. 181.



arrival at the site of the burning tavern, he gave instructions that the insurgents who had been wounded, and had been removed from the scene of the action, should be placed in carts and taken to the hospital. Those of the volunteers who were wounded had already been conveyed thither. Among the articles taken at the tavern was a flag with the inscription, "Bidwell and the glorious minority, 1837, and a good beginning." It was an old election banner of 1832, with the date altered. It was not long before the change of date was known. At the time it was a capture, welcome to sir Francis Head, as it apparently identified Bidwell with the rebellion, and was so specially mentioned in his despatch.

A discovery of far greater importance than this altered flag, that furnished the information to the government, most earnestly desired, was the carpet bag containing Mackenzie's papers. Among them was a list of all who were implicated in the outbreak. The government on this evidence were enabled to arrest many who would have remained unsuspected. The only explanation of this criminal negligence in leaving papers of this compromising character liable to seizure is, that in the excitement of preparing for the action, it had been forgotten by Mackenzie, for it would not have been difficult to have placed it in security. That this precaution was not taken can only be remembered to Mackenzie's great discredit.

Sir Francis Head remained near the site of the action a short period before he returned to town. The news of the success of the government's force had preceded him. The streets were full of sympathisers with the event, or of those who, now the cause of the rebellion had paled to nothingness, affected so to think. Along the route he was received with loud cheers, which were continued until he gained government house.

A proclamation had been issued in the forenoon of Thursday offering a reward of £1,000 for the apprehension of Mackenzie, and £500 for that of Gibson, Lount, Jesse Lloyd

and Silas Fletcher. Although dated the 5th, it was not made public until this day, and was plentifully distributed after the affair was concluded, in the hope that it would increase the efforts to arrest the parties named in the proclamation.

Matthews' mission to the east of the city, as by a little reflection might have been foreseen, ended in a miserable failure, and in his capture. If the theory of the movement was to turn the force from the ascent of Yonge street, it is plain that such an attempt made with only 60 men was sheer folly. He succeeded, however, in seizing the mail. Little is said of any depredation on his part of the letters, so the probability is, that he simply secured the bags, and that they were afterwards recovered. About noon he crossed by the Don bridge and advanced some distance up King street. On receipt of the news of the movement, a detachment of the militia under Mr. Percival Ridout, was sent from the city-hall. Matthews retired, and when doing so, attempted to burn the Don bridge. The fire was extinguished before much damage was done, but the tavern and the out buildings near the bridge with the toll-gate were destroyed. Matthews' orders were to draw off the militia, so he retired to the north before Ridout's force. In the afternoon he heard of the defeat at Montgomery's. The consequence was that his party separated into twos and threes. Matthews was himself accompanied by some of the inhabitants of the township of Pickering, where he lived. They were eleven in number, and hung about in the bush until Saturday, when they sought refuge at the house of Mr. John Duncan in east York, near the town line of Markham. Food and shelter were given them, but they had been tracked; and during the night the house was surrounded by an armed force of between 50 and 60 in number. There was an attempt at resistance, but it was useless, and retreat was impossible. Some of them, however, were wounded.

The insurgents were finally overcome, handcuffed and

marched prisoners to Toronto. It was the final act in subduing the attempt to capture the city; the last event of the outbreak which had caused so much commotion, and had turned Toronto for a few days into the spectacle of a besieged city.

Generally, those who have written on these events have expressed the opinion that on either of the days, Monday or Tuesday, Mackenzie need only have entered the city in order to obtain possession of it. I cannot entertain that view. Indeed, I regard the whole movement, as it turned out, a perfectly mad attempt doomed to failure, and that it never had the least chance of success. Indeed, had there been a lieutenant-governor, with a different set of councillors, acting with judgment and determination long previous to December, every system of sedition would have been summarily suppressed. Unfortunately, sir Francis Head was bewildered by the desire of consummating the political triumph which he claimed to have achieved, by the result of the elections of 1836. It was a majority obtained on issues in no way to be identified with his pretension that the country was satisfied with his government, and that it desired no change in the irresponsible character of the executive: a majority to obtain which, the most unscrupulous resort to every election artifice had been practised.

Everything that Head wrote establishes his opinion that in the government of the province, there should be one predominant power, that of the lieutenant-governor, responsible only to the colonial office; his council to be at the lieutenant-governor's disposal when he asked their advice, but never to interfere in the main lines of provincial policy; merely to be a council in name for the performance of ministerial duties.

The population of Upper Canada in 1838 was under 400,000; that of the city of Toronto about 12,000.\* Undoubtedly, of the whole there could have been only an insignificant minority, who desired separation from the mother

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\* [The precise figures as given by the census are 397,489.]

country; while those of that class in the city might have been counted by a few scores. I do not know the slightest evidence to establish that there was any extended general feeling of disloyalty. The discontent was political, directed against the lieutenant-governor and the government, and had been sustained by the hope of obtaining more liberal institutions. To the last, many of the few hundreds who were compromised in the outbreak believed that they were engaged in a pacific and bloodless political demonstration, and were not prepared to fight for the principles that Mackenzie advocated.

On the first assembly at Montgomery's on December the 5th, had the attempt to enter the city been made, at the most there would have been 100 tired, jaded, unarmed men, unfed, who would have assembled for the purpose of attack. Every act of violence on their part was placing the hangman's rope around their necks, while the conduct of the loyalist, however violent, would have been condoned by the circumstance that he had taken up arms for the defence of law and order. Moreover, the city was not so undefended as it is customary to represent it.

There was Fitz Gibbon's rifle company of 90 young men, with some discipline; 300 men were at the city-hall, armed, defending their homes and property, men of station and character, who, from a sense of shame, if from no better feeling, could not have faltered in the fight, with a field-gun charged with grape before the city-hall. The theory of Mackenzie and Rolph, it is asserted, was that on their appearance 600 of the liberal party would join them. There is no proof that there was the least preparation or organisation to that effect: even if there had been, the rising had been precipitated. There is no proof that this calculation was well founded. I cannot see that it ever was any more than a surmise from the assumed opinions of many of that party.

The value of an unarmed mob, such as Mackenzie had gathered, was shewn on Tuesday, the 5th of December, when at the most 750 marched down Yonge street, to be stopped by a volley from 27 men of sheriff Jarvis' picket. The whole

body turned and fled. After this event there was no further proposal to enter the city. That night many abandoned the cause, so that when attacked on Thursday, only 400 were present and did not stand twenty minutes.

It is unnecessary to discuss further the assertion that an attack on the Monday would have succeeded, for the insurgents were without strength or heart.

The slight resistance experienced on Tuesday led them to scatter like a flock of sheep, after the first of the mob took to flight. I can conceive no result could have happened more disastrous to the insurgents than an attempt on their part to take possession of Toronto. I cannot recognise that with their numbers, their want of arms, their imperfect organisation, without leaders of capacity ; in short, that a mere mob could have had the least chance against the precautions taken by Fitz Gibbon, a tried soldier, perfectly impressed with the necessity of caution and prudence. It suited sir Francis Head to place the name of sir Allan MacNab in prominence, but the merit of the organisation to resist the attack was entirely due to Fitz Gibbon.

Mackenzie had left his horse near Price's house, and as the pursuit of him had not been commenced, he reached the spot, mounted, and rode off. A graphic narrative of his adventures has been given by his son-in-law.\* Four days he was wandering about, in constant danger of capture, with the reward of £1,000 to tempt any false friend to betray him. It certainly is a record of fidelity and honesty on the part of those who knew Mackenzie's personality, and who incurred the risk of harbouring him, that this confidence was not abused. Finally he crossed the Niagara river to Grand island.

Gibson reached Oshawa, 32 miles from Toronto, where he lay concealed for four or five weeks. Other insurgents were likewise hid in the neighbourhood. At length, they undertook to cross the lake in an open boat, and reached the southern shore. Van Egmont was arrested on a farm four miles north of Toronto. Owing to the cold temperature of

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\* [Lindsey, Vol. II., pp. 102-121.]



his cell he was attacked by inflammatory rheumatism and taken to the hospital, where he died. Lount, accompanied by Kennedy, moved from place to place, obtaining temporary concealment. This harassing life was so severe that they determined to make a bold effort to reach the States. They started from Long Point, with a French Canadian named Deas and a boy, in an open boat. They were two nights and two days without sleep, constantly labouring to propel the boat, drenched with the waves, which struck a chill upon them, inflicting indescribable pain and suffering. Moreover, the pork they had brought with them became frozen, so that hunger was added to their other sufferings. They continued, however, to labour in urging their boat forward, and were approaching the southern shore of lake Erie; to them the promised land, to bestow freedom, peace and rest. But it was not to be; a strong southern wind arose and drove them before it. They strove to wrestle against it, but seeing that progress was impossible, they allowed the small craft to drift, until they reached the mouth of the Grand river. As by remaining in the boat they risked being frozen to death, they ran her ashore and landed. They were seen and believed to be smugglers, and as such were arrested by some of the inhabitants. They were subjected to an examination at Dunville. Neither was recognised, so they were marched to Chippewa. Lount, not long after his arrival in the guard-house, was identified and sent a prisoner to Toronto; Kennedy, his companion, to Hamilton.

## CHAPTER III.

Mackenzie when commencing his agitation had communicated to Dr. Duncombe his plans for organising an imposing political demonstration. Duncombe had been born in the United States, and after the close of the war of 1812 had arrived in the province. He had made large purchases of land; among them the site of the present village of Bishopsgate was his property. His presence also supplied a want in the district, for he was the first medical man who established himself in Burford. His professional capacity was undoubted, and his career had been in every way successful, equally in obtaining considerable means, and in becoming extremely popular. He spoke with much force, and having become a prominent leader of the reform party, had been returned to the legislature. He had been selected to proceed to England and bring the conduct of sir Francis Head to the notice of the imperial government. His mission had not been successful, and he had failed to obtain a favourable hearing from the home authorities. Owing to the unfavourable result of his attempt he had returned with increased feelings of antagonism against the lieutenant-governor and the party that sustained him. Duncombe, consequently, readily gave his support to Mackenzie's views in favour of a grand political demonstration.

Subsequently, he had been apprised of the esoteric designs of Mackenzie for the subversion of the government. He had not willingly accepted this extreme view, for he was fully conscious of the possibility of failure, and the disastrous consequences it would entail. Eventually he consented to take part in the movement, and finally undertook to direct the local organisation to effect it. He found that the moderate men of the district, when sounded by his agents,

refused to participate in any such attempt. Many of the inhabitants of the district, however, obeyed the summons to meet near the village of Oakland at the end of November with the view of supporting Mackenzie if he were successful in Toronto. A provisional committee was formed, arms were collected and steps were taken as if resistance were designed. So far as can be learned, there was no concerted plan of action. There was scarcely any correspondence on the subject with Mackenzie, and the organisation was left in the hands of Duncombe. Several local meetings were held, but they had not proved very successful. Those in the secret of armed resistance advocated an assembly to be appointed at Brantford, and a march to be made upon Hamilton. These puny conspirators had so little idea of what they were undertaking, that they made no preparation for their enterprise in the shape of money, provisions or ammunition. Such a necessity as a commissariat was not even thought of. A military leader was, however, selected, but only a poor supply of arms obtained. Never more than 300 persons were assembled.

The government was made acquainted with all these proceedings; but, as in the case of Mackenzie, these ominous preparations were permitted by the lieutenant-governor to mature. The meetings were the talk of the district, and several of the most prudent parties residing there earnestly persuaded their more impressionable neighbours to have nothing to do with the enterprise. The arrest of Dr. Duncombe would have terminated the attempt in twenty-four hours. Had the apprehension of Mackenzie and Duncombe been simultaneously effected, there never would have been a rebellion. From the neglect of sir Francis Head to take the precautions which the true policy required, it is he who must be held to have been responsible for all the tumult and misery with which the province was visited in 1837; and, what was far worse, for the prevalence of the bitter vindictive feeling which arose in the province, with great numbers of the population, against the unhappy men who had

participated in the wild, reckless, hopeless attempt to subvert the government; the most of whom, it may be said, were but imperfectly impressed with the object to be attained by the outbreak in which they took part.

On the morning following the dispersion of the insurgents at Montgomery's, colonel MacNab was despatched to the London district with 500 volunteers, to suppress the movement under Duncombe. The city was now crowded by volunteers in support of the government. Their numbers had so increased on that day, the 8th, that the lieutenant-governor issued an order that there was no further occasion for the militia to march to Toronto. On the following day, authority was given to the militia on the east of the province to give their services to sir John Colborne in Lower Canada, if called upon. In the city itself, a guard was formed of the citizens for night duty. This service was performed throughout the winters of 1837 and 1838; and by all accounts it was made a matter of social as well as of military intercourse, for it numbered the most respectable of the citizens.

MacNab marched with his column from Toronto to Brantford, and thence to the township of Burford, where his men were billeted on the farms. On the 14th, a week after the affair at Montgomery's, he was joined by detachments from London, Simcoe and Woodstock. He marched to the village of Scotland, on the south west of the township of Oakland. He there found that the insurgent forces had dispersed, and that there was not a single person in the field to oppose the government. Duncombe, and those most compromised with him had escaped to the United States. The greater number had returned to their homes. Those known to be seriously committed to the revolt were not allowed to remain, but were arrested and lodged in jail.

The morning after the affair at Montgomery's, occurred the episode of Mr. Bidwell's departure from the province, the most discreditable event in sir Francis Head's unfortunate four years of government. Years afterwards in the

"Emigrant" he misrepresented Bidwell's conduct. He described him as "deeply implicated" in the rebellion; a statement he himself had admitted to be at variance with fact, for he had personally, in an interview with Bidwell, declared it was an opinion he did not entertain. He adduced as a proof of Bidwell's guilt the flag taken at Gallows Hill, when he knew perfectly, for it was a matter of notoriety at the time, that it was an election flag of 1832, the date of which had been altered. His description of the interview with Bidwell was false in every respect, even as to the date; for that fact is proved by Bidwell's letter.\*

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\* The following is sir Francis Head's account of the interview, as given by him in the "Emigrant," p. 199.

"On the day before the outbreak I had had the windows of the room in which I was sitting when I received Mr. Bidwell's card, blocked up with rough timber, and loop-holed; and on his opening my door, the instant this strange and unexpected arrangement caught Mr. Bidwell's eyes, he remained at the threshold for some moments, and at last slowly advanced until he stood close before me. He neither bowed to me nor spoke, but fixing his eyes on the tied-up bundle of his sealed letters which I held in my hand, he stood for some time broken down in spirit and overwhelmed with feelings to which it was evident he had not power to give utterance.

"As I had not sent for him, I, of course, waited to hear what he desired to say, but as he said nothing and appeared to be speechless, I myself broke the solemn silence that prevailed by saying to him, as I pointed with his letters to the loop-holed windows at my side, "Well, Mr. Bidwell, you see the state to which you have brought us." He made no reply, and as it was impossible to help pitying the abject, fallen position in which he stood, I very calmly pointed out to him the impropriety of the course he had pursued, and then observing to him what he well enough knew, that were I to open his letters his life would probably be in my hands, I reminded him of the mercy as well as the power of the British crown, and I ended by telling him that, as its humble representative, I would restore him his letters unopened if he would give me in writing a promise that he would leave the Queen's territory for ever. Mr. Bidwell had concealed in his heart some good feelings as well as many bad ones; and as soon as his fears were removed the former prompted him to express himself in terms which I will not undertake to repeat. Suffice it, however, to say that he retired to the waiting-room, wrote out the promise I had dictated, and, returning with it, I received it in one hand, and with the other, according to my promise, I delivered to him the whole of his letters unopened.

"The sentence which Mr. Bidwell deliberately passed upon himself he faithfully executed.

"He instantly exiled himself from the Queen's dominions, and, repairing to



Sir Francis Head had an interest of no ordinary character in inculcating Bidwell. He had refused to appoint him to the bench, and after so acting, had sent in his resignation. Did the lieutenant-governor believe that it would be accepted? I conceive that the narrative of events shews to the contrary; that he felt the strength of his position made his presence in Upper Canada indispensable, especially as he rode down Yonge street to government house, after the dispersion of the handful of insurgents at Montgomery's. His disappointment can be read between the lines of what he wrote in his official reply on the intimation of its acceptance, especially by the emphatic language in which the communication was conveyed. There was the further intimation that his successor would arrive with the least possible delay. Head during his interview with Bidwell was not then aware of this fact, and if he could prove Bidwell to be a deeply dyed traitor, he would not only justify his disobedience of orders, but obtain *κῦδος* for his prescience in having so truly penetrated Bidwell's character. The facts of the case have been established as follows.\* On Wednesday, the 6th of December Bidwell was aware that public opinion had unfavourably interpreted his refusal to accompany Mr. Baldwin in his mission to the insurgents the preceding day, and that it had been attributed to the countenance given by him to the insurgents. He determined, therefore, to meet the imputation, and with this view was proceeding to the office of the attorney-general, when he met him in the street. Mr. Bid-

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the state of New York, he very consistently took there the oath of allegiance to the United States, and openly and publicly abjured allegiance to all other authorities and 'especially to the crown of Great Britain!'

\* For the authorities on which I base my narrative I refer the reader to Dr. Ryerson's "Story of My Life," pp. 190 and 196, and to the letters given by Mr. Dent in his "Upper Canadian Rebellion," pp. 159, 174. These are the letters of attorney-general Hagerman, Dr. Ryerson's letters, Bidwell's letter of acceptance to the lieutenant-governor of the 8th of December; his letters when in New York to Ryerson of the 4th of May, and his account of the interview in New York with sir Francis Head. There are also the general facts as they are elsewhere presented. To my mind, this array of evidence indisputably establishes the painful character of the proceeding.

well protested against the suspicion with which he was regarded. He gave his assurance that he was free from all complicity in the movement. He offered to undergo a personal examination, and to submit his papers to scrutiny. Hagerman answered that "for his part he did not believe that Bidwell had participated in the revolt; that he was not aware that any officer of the government suspected him; and that there was no desire to subject him or his papers to examination," "I then remarked to Mr. Bidwell," continued Mr. Hagerman in the letter from which I am quoting . . . "that he ought not to be surprised if, as he suspected, he was looked upon as a disaffected person "owing to his constant opposition to the government and the political principles he had ever professed and upheld." The following morning a second meeting took place before the march to Montgomery's. Hagerman mentioned the report of Rolph's departure, and asked if Bidwell knew the object of his visit to the London district. Bidwell had been informed of Rolph's flight, and he communicated the fact to the attorney-general, with the explanation "that he feared he might be apprehended and committed on suspicion of corresponding with traitors; secondly, he was afraid that Mackenzie and others might send him messages which would compromise him." The statement was a revelation to the attorney-general, for Rolph's participation in the rebellion had in no way been suspected; a proof of the caution with which he had acted, and the limited direct part he had taken in the organisation. During the conversation, the attorney-general relates, Bidwell remarked that he had little hope of happiness in remaining in Canada, upon which Mr. Hagerman tells us that he replied, that Bidwell would do wisely in leaving the country, as his opinions were entirely at variance with the monarchical institutions of England.

On the morning of the 8th, Friday, after the dispersion of the insurgents, Bidwell heard of the "Bidwell flag," and that his letters at the post-office had been seized by the

government to be submitted to the executive council; he was in weak health at the time. Ryerson subsequently wrote of him "you know of Mr. Bidwell's personal debility, you know he has been a dying invalid during the greater part of his public life; you know that for years he was considered far advanced in a decline, and was not expected to survive from session to session," His physical weakness made him feel his position more acutely, and he resolved at once to see the lieutenant-governor. An account of the interview has been given a few pages back. The statement has hitherto been accepted, that the alternative was placed before Mr. Bidwell of having his letters opened, or self-imposed banishment. This account of the interview was emphatically denied by Bidwell. "This is not true," he wrote, "nothing of the kind was hinted; on the contrary, sir Francis assured me that the letters had been sent to him without his orders, and that he never would allow my letters to be opened. I asked him to open them, as I did not want to have any suspicion about them indulged in afterwards, but he refused to do it, and said he had too much respect for me to allow it."

If there was a point in which sir Francis Head was interested, it was the justification of his refusal to appoint Bidwell a judge. If he could establish that his objection was well founded, it would have been a perfect vindication of his conduct. He could not but believe that Bidwell had no complicity with Mackenzie's plots, indeed he so expressed himself. It is not to be supposed that the attorney-general had failed to report his conversation with Bidwell, in which he had said that his one chance of happiness was to abandon the country. If sir Francis could induce Bidwell to take this course, he could give what colouring to it he saw fit, and it is plain that he acted with the design of obtaining this result. While he personally expressed his confidence in Bidwell's explanations, he told him that circumstances were against him, and that certain other persons had not the same views as he himself held. There was, indeed, much in Bidwell's political career to

lead to suspicion. His communication to Papineau of Head's instructions; his submission to the assembly of the letter received in reply from Lower Canada, so totally at variance with Upper Canadian feeling; his known friendship with Rolph, whose implication in the outbreak was then known, furnished grounds of suspicion against him. He had also written a letter to Dr. O'Callaghan, of the *Vindicator*, of Montreal, which had been published; for the disaffected of both provinces played off the slightest expression of sympathy from the public men of the sister province, whose names they thought would give strength to the political game of the hour. In this letter Bidwell had declared he looked with deep interest on the struggle in Lower Canada between the oppressor and oppressed, and that all hope of justice from England seemed to be extinguished.

Furnished with facts of this character, sir Francis was by no means deficient in the weapons that he could draw from the arsenal of his own imagination. The lieutenant-governor told Bidwell that he was looked upon as the Upper Canadian Papineau, and instanced the capture of the flag as a proof of this belief, adding that his own conduct had been called in question for not having ordered Bidwell's arrest. He told Bidwell that martial law would be immediately proclaimed, and that it would be impossible to exclude him from its operation; that the country, wild with rage and indignation, was capable of any excess; that its passionate vindictiveness could not be restrained, and that it was especially directed against Bidwell as the ablest of the party, who had prepared the way of rebellion. It was not the period for calm judgment to be exercised, and men of prominent position had expressed their strong conviction of Bidwell's guilty complicity. Under these conditions he would be brought to trial, and could not hope for a favourable verdict. Even as lieutenant-governor, sir Francis would be unable to help him, and conceived the best course Bidwell could take was to leave the country. It was in a situation of this character that the abilities of Head obtained full play. His easy manner, his

readiness of language and the good-natured air of sincerity he could assume, all worked their influence. In the condition of excitement in which he was placed, Bidwell could only see the sympathetic advice of a friend. He did not know the part that his proposed appointment to the bench had played in Head's resignation. He saw in all that had been said to him the advice of one holding a high position, who was kindly disposed to him, and under the impulse of this feeling he wrote the letter in which he engaged to leave the province. It can be seen, that no mention is made of the retention or the return of his own letters.\*

Previous to his departure on the 9th, Bidwell wrote a few words to Ryerson, stating that at the request of the lieutenant-governor he was leaving the province suddenly, and forever. He had been suspected of participation in the revolt, of which he was innocent: that his past political life might have been the cause of this distrust, and that he had thought it best to comply with the lieutenant-governor's expressed wish, as it was accompanied with many words of kindness.

Every law of personal honour, and every sentiment of the power he possessed, enforced upon sir Francis Head the duty of considering the interview between himself and Mr. Bidwell as strictly private, and, if mentioned in any way to any of his advisers it should have been imparted in the strictest confidence. Sir Francis Head was governed

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\* The letter so delivered was as follows, the form of expression having been suggested by Head.

"TORONTO, 8th December, 1837.

"In consequence of the kind conversation of Your Excellency this morning, I have determined to leave this province forever.

"I am aware that the circumstances to which Your Excellency alluded are calculated to give rise to suspicions against me in relation to this insurrection, they would be likely to render my further residence in this province unpleasant; they make Your Excellency's kindness the more worthy of my deep and lasting gratitude.

"I am confident at the same time that the investigations which will now, of course, be made will fully remove these suspicions from Your Excellency's mind, and will prove that I had no knowledge, or expectation that any such attempt was in contemplation."



by no such considerations. His treatment of Bidwell had been dictated by the desire of establishing the prudence and wisdom of his own conduct, and of justifying himself in the eye of the colonial minister. Acting on this principle he published the letter in the *Toronto Patriot*. It was accompanied by an editorial article which none can hesitate to affiliate in some form to an inspiration from government house, pointing out that as Bidwell had left the country under circumstances that proved his consciousness of guilt, it was the duty of the benchers of the law society to erase his name from their rolls.

This proceeding awoke the indignation of Mr. Egerton Ryerson, then at Kingston. Obtaining the letters written by Bidwell, and referring to a communication on the subject of Bidwell's departure from the attorney-general himself, he appealed to the law society and the country at large against such an act of injustice. His letter, published in the *Kingston Herald*, was signed a "United Empire Loyalist." That his writing should not be known, it was copied in another hand.\* The effect of the letter was remarkable; it may be said to have been the first advocacy of the principles of constitutional government that had taken place since the outbreak. Mr. Hagerman felt called upon to reply in justification of his conduct; he asserted that the writer had concealed his name for fear of the legal consequences of the proceeding. No mistake could have been greater. Ryerson, as a descendant of a U. E. loyalist, had come from a race with whom courage was a born attribute. Personally, he was entirely fearless, and throughout his long public career never shrank from any encounter, political or personal. Immediately, above his own name he defied the threat of a legal prosecution, and adduced proof of the truth of his utterance. This paper was described by himself as "the most argumentative he ever penned."

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\* The copyist was no other than the late sir Alexander Campbell, at the time a law student. The fact is attested by himself in a letter, dated 29th December, 1882, to Dr. Hodgins, the editor of "The Story of My Life" (Dr. Ryerson) p. 192.

Shortly after the arrival of sir George Arthur he sent for Dr. Ryerson and requested him to withdraw this answer to Hagerman, for it had weakened the government. Sir George said that when he was at Albany Mr. Bidwell had called to pay him his respects. Having accepted the opinions of those about him, he expressed the belief that whatever caution Bidwell had shewn, he was concerned in the rebellion. Dr. Ryerson, however, declined to withdraw the letter. His refusal made sir George Arthur his enemy, and led the lieutenant-governor eventually to warn lord Sydenham against Ryerson as a dangerous man, as Ryerson was afterwards told by the governor-general himself.

Mr. Bidwell never returned to Canada as a resident. A few weeks before his death he visited Toronto, and, Dr. Ryerson tells us, sat in his pew in the Metropolitan church. Every inducement was made for him to re-establish himself in the province. In 1843, although no record could be found of his engagement not to return to the province, the governor-general, lord Metcalfe, at the recommendation of Mr. Baldwin, annulled any such agreement. Bidwell was further offered by the same authority to be reinstated in all his rights and privileges, with a view to his occupying a position on the bench. It was all to no purpose. Some years afterwards, sir William Richards, when attorney-general, was authorised to offer Mr. Bidwell the position of commissioner to revise the statute law, but the offer was not accepted; and we are informed by Dr. Ryerson that sir John Macdonald on one occasion, being in New York, urged Bidwell's return, but it was all to no effect. He remained in New York until his death.

There is one passage in his life which cannot be omitted. When sir Francis Head was in New York in March, 1838, on his way home, Bidwell called upon him. The conversation had lasted for some time, and on Bidwell rising to take his leave, sir Francis begged him to remain, for he had an important communication to make. Sir Francis then related his

instructions to appoint Bidwell, his refusal to comply with them, and his consequent resignation. Bidwell has given the reply made by him. It is worth preservation. After stating that he had not called upon sir Francis to enter into any explanation, and that his desire had only been to treat him with the respect due to the station he had held, notwithstanding his conviction of the injustice he had received, Bidwell continued: "As he himself had introduced the subject, candour and justice to myself required me to say that, after I had resided nearly twenty-six years in Upper Canada, and had during all that time been a peaceable and obedient subject, and had borne, as he had admitted, an irreproachable and exemplary character, to take advantage of an occasion, when I could not exercise any choice, to compel me suddenly to leave a country in which I had formed all my attachments, connexions and habits, where alone I had a home, or property, or a profession, was exceedingly arbitrary, unjust and cruel, involving as it might, and probably would, the ruin of myself and family. He replied, it was one of the consequences of the rebellion, and he regretted it. I said no, it was his act, not that of the rebels; I could not blame them for it; but I would not pursue the subject, as I did not wish to say anything disagreeable to him." So Bidwell took his leave.

On Rolph's arrival at Lewiston, he had been received with a demonstrative welcome, and in accordance with the demand of the small mob before the house, had addressed them on the corrupt administration of the province, and had expressed the hope that the people would obtain relief from their political wrongs. Whatever connection he may have had with sympathisers who had declared their readiness to invade Canada, it was by no means actively shewn. He declined to be named as a member of the provincial government; he refused Mackenzie the use of his name in the proclamation to be issued, but he permitted the assurance that he favoured the aggressiveness of the movement. The general testimony is that he took no part in the subsequent agitation in Buffalo. Once he visited

Navy island for about an hour. Shortly afterwards he refused to act as treasurer for the money subscribed, and took up his abode in Rochester, where he was joined by Mrs. Rolph, and practised as a physician.

Mackenzie acted a very different part. He had written from Montgomery's tavern to a Buffalo paper, asking for assistance from "the free citizens of your republic." The letter was dated the 6th, the day previous to the dispersion of the insurgents. Buffalo, from being the point of transfer from the barge navigation of the Erie canal to the steamboats of lake Erie, when frost had closed the canal, contained a numerous population of boatmen, lake sailors, and men who, during summer, gained their bread on the water, and for the most part were idle during the winter. They were not a collection of scrupulous men, and in the relaxed condition of municipal government in that city at that time, had not very defined ideas of political liberty; their doctrine in this respect was doubtless that men should do precisely as they liked. This body constituted an inflammable mass of individuals, easily excited, with generous impulses, and warm feelings, capable of being directed to much mischief by artful agitation. Buffalo, sixty years ago, was then looked upon as the extreme west, or at least as the portal which entered upon it. It is at present a large city, with several hundred thousand inhabitants, adorned with buildings of architectural merit, with all the attributes of a modern civilisation, and with a population as orderly and discreet as that of any older community. Meetings at that place had been held at an earlier date in favour of the "suffering Canadians." At these it had been represented that the almost universal feeling in the province, was to throw off the hated imperial tyranny; in other words, to go over to the United States. Those who had anything to lose, highly as the project might be attractive, had little inclination to sacrifice their substance in support of the enterprise. With them the last consequence contemplated was personally to incur danger in any hostile demonstration.

Mackenzie immediately became conspicuous in the meetings which followed, and it must remain as a lasting reproach to his memory that he did his best to lead to a war between the United States and Great Britain. He did succeed in influencing a great number of the frontier population to engage in raids of brigandage upon Canada throughout 1838. Many who joined in these outrages paid dearly for their participation, and every attempt of that character ended in failure and disgrace. Mackenzie arrived in Buffalo on the 11th of December. A meeting of his sympathisers was held at the theatre the following night ; he himself suffering from the fatigue and anxiety attendant on his escape was unable to attend. His presence was not particularly missed, for the oratory, which consisted of abuse of Great Britain and the wretched condition of Canada, found many representatives. There was a meeting the following night, when Mackenzie appeared as a martyr in the cause of liberty. With violent exaggeration, he represented the wrongs from which Canada was suffering as identical with those that had caused the colonies to throw off the British yoke. Before the meeting closed, one Jefferson Sutherland declared his intention of embracing the cause of Canada, and called for volunteers, and contributions in arms and munitions of war. Thus in a few hours Mackenzie was engaged in an organisation for the invasion of the province.

Among those who came to his aid was a young man belonging to the old Van Rensselaer family of Albany. From the representations he made of his military capacity, he was appointed to the command of the expedition. He had moved in good society, and his manners and address carried off pretensions which proved to have had but a shallow foundation. His habits were bad ; he was intemperate. He took a high tone as to what could be effected, and if he is to be believed, he succeeded in impressing Rolph so favourably with his capacity as to accord him countenance. The facts, however, establish that Rolph withdrew from the movement after a few days' experience of what was being done. The



plan of the campaign was the seizure of a small island in British territory to the west of Grand island, about half a mile from the western shore, which was therefore exposed to cannon shot from it. It is more immediately opposite to Street's creek, the mouth of the Welland river being only a short distance to the north of it. The distance from the falls is about three miles. The current is here very strong, in the centre of the stream about seven miles an hour; but row-boats can cross from Chippewa when managed with skill. Any assemblage of sympathisers that took place on the island was therefore on British territory, and could not be made a matter of complaint to the United States.

In Buffalo volunteers were sought, and aid in arms and money was demanded. Subscriptions to some extent were obtained, and a rendezvous for the recruits who would enlist was held at the Eagle tavern. As they joined, they were transferred by night to the village of Whitehaven, on the larger United States island, Grand island. Thence they were conveyed to Navy island. Those who joined were men in desperate circumstances, not of the *prolétaire* class, but of the number who hang about all large cities, impatient of regular labour, with no recognised means of living, but bent on the enjoyment of a free life, in which debauchery as a rule plays no trifling part: men and women, who set at defiance the efforts of philanthropy, many of whom know no training but that of vice and poverty.

On the 13th of December Mackenzie visited Whitehaven with Van Rensselaer, to march their recruits to Navy island. They had been represented to be 250 in number, with 450 stands of arms and two guns, and provisions in abundance. They found 24 volunteers only. Van Rensselaer was greatly surprised as he himself afterwards related. Mackenzie was so prostrated with disappointment that he sank on the frame of a gun. Nevertheless, they determined to proceed with these 24 recruits, of the character that I have described. Mackenzie issued a proclamation, written in his

most inflated style.\* It was signed by Mackenzie himself, as chairman *pro tem* of the provincial government.

There was to be a written constitution; abolition of hereditary honours and the law of entail; an elective senate and assembly; an executive chosen by the public vote. The judiciary was to be appointed by the governor-general and senate; 300 acres of land were promised to every volunteer. In a few days a second proclamation followed, offering as a bounty \$100 in silver, payable on the 1st of May, 1838. Why was not the 1st of April chosen? It would have been more appropriate. Eleven persons with himself were named as forming the provisional government. Of them, Lount was in Canada trying to escape; Duncombe was still seeking to cross the frontier; Van Egmont was in Toronto jail, soon to die; Darling repudiated all connection with the proceeding, and bitterly complained that his name should have been mentioned. Rolph had refused the use of his name. Mackenzie, as the saying goes, wrote round this prohibition. He affirmed that the list included two other distinguished gentlemen "whose names there are powerful reasons for withholding from the public view." It was generally considered that Rolph and Bidwell were meant. On the 20th of December, Bidwell having heard that he had been mentioned in connection with this paragraph, wrote to the Buffalo and Rochester papers denying that he was one of the individuals so specified. The proclamation, after assailing sir Francis Head, offered £500 for his apprehension, so "that he may be dealt with as may appertain to justice." The absurdity of this bombast was lost in its suggestiveness to assassination, for to many men in want of money and unscrupulous as to its acquisition, it could bear that meaning. "The friends of wisdom," said the proclamation, "continued to act in strong and regular concert with Mr. Papineau and the Lower Canada patriots." Mackenzie claimed that he had procured the important aid of general Van Rensselaer; suggesting that it was the

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\* Given in full in his life, Lindsey, Vol. II., pp. 363-369.

father, not the son, who had joined the enterprise; the latter had no claim to any title of respect. The father was held in high esteem, and was known as having conducted the attack against Queenston in 1812. His name, accordingly, brought credit with it; not so, that of the son.\*

Mackenzie's proclamation, offering hard money, operated as an inducement with a certain number living as they best could in Buffalo, to proceed to Navy island. We are told, however, that on the 20th of December, the day when the "Caroline" was cut out, they did not number 200 persons. Shanties were built to house them; one of greater pretensions was dignified by the name of "headquarters," before which floated a flag with two stars, representing the future states of Canada. Some cannon had been obtained, which had been fired from time to time against the houses on the shore. No death had ensued, although the balls had passed through some of the dwellings. Money, however, was scarce; bills were therefore issued payable four months after date at the city-hall, Toronto. They were signed by Mackenzie as chairman, by Parsons as secretary, and countersigned by Gibson as comptroller. Gibson was then in hiding near Oshawa, and subsequently repudiated all connection with the proceeding; consequently his name was forged. These notes are now rarely found. One of them, of which a *fac-simile* is given, is made payable to Mr. James Harvey Price, of Toronto, who could not have been particularly thankful for being thus brought into prominence.†

The issue of these notes furnished means to some extent for the purchase of supplies, and relieved the pressure of the empty exchequer. The attack on British authority called forth much sympathy from the localities on the frontier, and food and warm clothing to assist in the winter campaign were sent from several places to Navy island. The subscribers were cajoled by the assertion that the whole province of Canada was ripe for revolt, and that it was only necessary for

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\* [Ante, Vol. VIII., pp. 214-226.]

† [Lindsey, II., p. 51.]

a force from the United States to appear for it to be sustained by enthusiastic numbers. Many of the local authorities directly encouraged and assisted Mackenzie's agents. Arms, knapsacks, and accoutrements were obtained from the federal arsenal; and the state artillery was placed at the service of the assembled force, on pretexts the most flimsy.\*

It is not easy to state the precise number of sympathisers that congregated at Navy island. On Mackenzie's authority, the number at the time of the destruction of the "Caroline" has been given as 200. Mr. Gorham names 150. We are told that subsequently they increased to 450. Sir Francis Head estimated the number at 700.

The news of the occupation of the island created in Canada the greatest indignation among men of all classes and all opinions. On the intelligence being received of the incendiary meetings at Buffalo, sir Francis Head addressed governor Marcy, of New York,† bringing the facts to his notice, and expressing his conviction that the public authorities in the United States "would exert themselves to strengthen, rather than disturb, the kind feeling which has for so many years united the nations of Great Britain and the United States." On hearing of the occupation of Navy island Mr. McLean, the late speaker of the house, was sent with despatches to the British minister at Washington; and at the same time he was the bearer of a letter to Mr. Marcy,‡ informing him of the proceedings taken by Mackenzie.

\* Sir Francis Head, in the "Emigrant," p. 438, gives the following order, accepted by a colonel Ransom as the production of general Winfield Scott, whom he must have known as one of the best educated officers of the United States army :—

COLONEL H. B. RANSOM, commander-in-chief at Tonawanda :

Pleas sen on those pieces of Canon which are at your place. let the same teams come on with them.

Yors in hase,

W. SCOTT, commander-in-chief on the Frontier of Niagara.

Had Ransom met his deserts, he should have been cashiered for abuse of his trust.

† [13th December, 1837, "Narrative," p. 345.]

‡ [Ib., 23rd December, p. 347.]

Volunteers were despatched to the Niagara river, and in a few days 1,800 were assembled. The numbers daily increased. In the first instance they were placed under the command of colonel Kenneth Cameron, formerly of the 79th Highlanders, and at the time assistant adjutant-general. Mr. MacNab, however, having received instructions to take command, arrived at Chippewa on the 20th of December, bringing with him the columns which marched with him to the west. The number then amounted to 2,500 men. The lieutenant-governor had given strict orders to act only on the defensive.\* Nevertheless, steps were taken to organise an attack to drive from the island the United States intruders who had taken it in possession. Three lake schooners were obtained, each armed with a gun, officered, and manned, and a small fleet of boats assembled to carry the troops on the expedition. From time to time the guns were fired from the island; and although directed against the militia as they appeared on the shore, no human life was lost, one horse only having been killed.

Sir Francis himself arrived on the 19th. He remained on the ground some days, and in spite of MacNab's appeal for permission to attack the island, adhered to his passive policy that only in case a landing should be attempted were active operations to be undertaken. Mackenzie had now been 15 days in occupation of his position. The inaction of the Canadian militia seems to have suggested the opinion that they dared not attack him. As his cause promised to succeed, supplies became more plentiful; there was the difficulty, however, of conveying them from the shore to the island, and the want of a steamer was felt.

There was a small steamer of forty-six tons, lying at the dock in Buffalo, and belonging to one Wells. Although a sympathiser with Mackenzie's attempt, he declined to permit

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\* For nearly a fortnight the militia, in obedience to the repeated orders, without returning a shot, had submitted in patience to the fire of twenty-two pieces of artillery, the property of the government of the United States. ["Emigrant," p. 223.]



the use of his boat unless secured against loss. This security was furnished by seventeen men of means in the city, and a large force was employed to cut her out of the ice. A lake sailor named Appleby was placed in command. The use to which the vessel was destined was a matter of notoriety, but the collector of the port unhesitatingly gave her a clearance.

The steamer reached fort Schlosser on the afternoon of the 28th. The village contained little more than a wharf, and a tavern, which had become the headquarters of those mixed up with the Navy island enterprise. The vessel commenced immediately to carry over supplies to the island, with munitions of war; among the latter, a piece of artillery. In the account written by admiral Drew, some years after the expedition, he related that on the following day, the 29th, he and colonel MacNab first observed through their glasses the steamer running to the island with men and field-pieces. MacNab exclaimed, "This won't do. I say, Drew, do you think you can cut that vessel out?" Drew answered, "Nothing was easier, but it was to be done at night." "Well, then," said MacNab, "go and do it." "These," adds Drew, "were literally all the orders I ever received."

It was arranged that the expedition was to take place that night, and as Drew came to consider the means of carrying it out, he fully felt the extreme danger of the undertaking. It was hazardous crossing the river at any hour, and the most capable boatman to this day will only with reluctance cross at night. Below Navy island the distance from shore to shore is nearly three miles. The current generally runs at four miles an hour, but its maximum speed is seven miles. The distance to the rapids above the falls is a mile and a half, and there is constant danger of drifting within them, to be carried in a few seconds over the falls themselves. This service was to be performed at night, and the only boats available were the ordinary lake craft of 12 ft. long.

It was determined that the object of the expedition should be kept secret. When volunteers were asked for, so many offered, that selection was difficult. It was left to those

who thus came forward to settle among themselves who should be chosen ; the indispensable condition being, that whoever they might be, they should be good oarsmen.

It is not easy from the contradictory reports given of this celebrated event, to state with precise certainty what took place in carrying out the expedition. The main narrative is, however, undisputed, and it can be given with confidence as to its general accuracy.

The expedition consisted of seven boats, each containing four men to row, and three or four to be available for the attack. It was a bright moonlight night, and it was considered necessary for the moon to go down, before the steamer which was seen to be lying at fort Schlosser, on the United States shore, should be assailed. Captain Drew in his narrative tells us that there was a difference of opinion between MacNab and himself, as to dealing with the steamer when taken. MacNab desired that she should be brought over to Chippewa. Drew argued that in that case the United States authorities would never rest until she was given up. On the contrary, if burned, there was an end of the matter, and great embarrassment avoided. The preparations had been completed by half past seven, but as the expedition had to wait until it was dark, the start was made at half past eleven. The shore was crowded with the comrades of the men composing the expedition, and they wished them godspeed with three hearty British cheers.

Drew led the way some short distance up shore, when he stopped and called the boats around him. He then told them the nature of the service they were to perform, and the precautions to be followed. They were not to go near Navy island, in order to avoid drawing the fire upon them from the men on the island. The boats were to keep as close as possible to Drew's boat, and on no account go ahead of it; their effort should be to strike the shore above fort Schlosser, and there wait until all the boats had assembled. Drew told the men that the service was one

of danger, and if any present objected to the expedition, it was not too late to speak, and they would at once be landed. No one accepted the offer. The boats then left the shore to cross the river.\*

When they had rowed a third of the distance, firing from Navy island was heard. Two of the boats had passed too near the island to escape discovery, and the shots were directed against them. They accordingly withdrew, and the firing ceased. These two boats went astray and took no part in the affair, and were not seen by Drew until his return to the Canadian shore. The remaining boats pushed on. The nearer they came to the centre of the river, the roar of the falls became more terrible. Drew described the sound as awful, especially as one of the men called to him that they were going astern and would be carried over the falls. A light was now visible on the shore, which proved to be that of the steamer, and the men were able to judge by it whether or not, they were dropping down the stream. Drew put the boat's head up stream, explained that they were in the greatest force of the stream, and urged the men to increased effort to overcome it. He relates that for a brief period he could not think the boat was going ahead; finally, it was seen by the light that they were gaining on it. Thus the terrible anxiety he felt passed away, for truly it was a question of life and death. It must have been equally the feeling with the other boats.

As they went onwards, it became plain that the light was that of the steamer, but the hull could not be seen, a circumstance that was perplexing to them. A long strip of land was found to intervene, which interfered with the view of the steamer; in itself a fortunate circumstance, for it also prevented the boats being seen by the watch. Had the contrary been the case, surprise would have been impossible, and it was the only hope of success. The boats

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\* The seven boats were commanded by lieutenants McCormack, Bier, Elmsley and Battersby, Mr. Lapenocière, mate, and Mr. Harris, master, R.N., with Mr. Gordon, captain of a lake steamer. [Admiral Drew's Narrative.]

were forced to pull along the island and thus came ahead of the "Caroline" off the main shore.

Drew's boat was now joined by four of the six boats which had started with him; the failure of the two to reach him remains unexplained. The moon was still shining brightly, and it was held to be prudent to remain in perfect quietness and wait until it went down. The position was one of danger. They were but thirty or forty yards from the shore, and about two hundred from the vessel which lay quietly at her mooring by the dock. By the absence of all movement on her deck, it was plain no attack was expected.

It was half past twelve when the movement forward was made. Drew directed the oars to be worked as gently as possible, and the men not to speak even in a whisper. When within a boat's length, they were challenged and asked for the countersign. Drew called upon the man to keep silence, and that he would give it when on board. Drew was the first to mount, and found three men on the star-board gangway, unarined. He directed them to go ashore for he wanted the vessel. The men passed to the port side. Drew thought they were going ashore, but they seized some arms placed there. One of them discharged a musket when not a yard distant, but the ball missed the aim. Upon this Drew cut him down; a second discharged a pistol, but it flashed in the pan. The men were then disarmed and driven over the side. The party were now in possession of the vessel, three of the boats having boarded from the bow. There were 33 men on board, 10 of whom composed the crew. The remainder had gone on board for a night's lodging. Some firing took place in front, when Drew mounted the paddle-box and gave orders for it to cease. Lieutenant Elmsley was sent on shore with a small party to give notice of any attack from that quarter. Everyone was then aroused from sleep, and landed on the wharf. When they had left the vessel, she was set on fire in four places. There was difficulty in getting her adrift from

the wharf, for she was made fast with chains under the ice, but one of the boarders, Mr. Sullivan, understanding how to act, seized an axe, cut through the ice, and cleared the chain. The steamer was now adrift.

Everyone was ordered to the boats. In his anxiety to see that all the party had left the "Caroline," Drew was nearly left on the burning vessel. Fortunately there was a boat within hail in which he obtained his place.

On leaving the Canadian shore Drew had asked MacNab, so soon as he should see a blaze on the United States shore, to light a fire on the Canadian side. As they rounded the point of the island, the blaze of a huge fire was seen. Not only was it a beacon light for them to steer by, but it furnished a light for their return across the stream. They had now no dread of discovery, so they kept close to the island. It was at this time quite dark. The boats reached the Canadian shore between two and three in the morning. The object of the expedition had by this time become known, and the shores were crowded by the whole force to welcome the return with three of the heartiest cheers ever given. MacNab was also present to receive them. He did not hesitate to say that on their departure he had doubted if he should again see Drew, and that their success had exceeded his utmost expectations.

Admiral Drew, for such he eventually became, relates that a quarter of an hour after their landing, the "Caroline," then in flames, had drifted across to the Canadian channel, and was seen descending by the stream to the centre of the British falls. He described the "splendid sight" of the burning vessel being carried over the falls to have been witnessed by hundreds.

One man only of the United States was killed, one Durfee, who was left dead on the wharf. It was considered at the time that it was not impossible that he was shot by one of his own people from the tavern. Of the attacking party, lieutenant McCormack was seriously wounded. He recovered to a certain extent; but from the injuries he received the assem-



bly granted him a pension for life of \$400. Captain Warren, another of the party, formerly of the 66th, was also wounded, but he recovered immediately, and resumed his duty. Some of the younger members likewise were slightly wounded, but the injuries were so unimportant that their names have not been preserved.

The attack upon the "Caroline" caused great astonishment throughout the United States, and led to a cry of the loudest indignation. Such an enterprise at the time was considered impossible. Upper Canada was looked upon as torpid from bad government and political discontent, and without the energy to make an effort in any direction. The great majority of the population had been represented to be on the verge of rebellion, waiting only for the opportunity to throw off the hard yoke of the mother country. The facts with which the United States were confronted shewed the falsity of these suppositions. The burning of the vessel had not been effected by regular imperial soldiers.\* The party

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\* I have based my account of this event on the pamphlet of judge Woods of last year, which gives the narrative of admiral Drew with the judge's own experience on the occasion. I learn from judge Woods and from Mr. Mills, president of the Wentworth historical society, that admiral Drew's paper first appeared in 1864. I have also availed myself of the labours of Mr. Lindsey and of Mr. Dent. They by no means agree. Mr. Lindsey adduces the authority of Mr. Mackenzie that the vessel passed over the falls. Mr. Dent, on the authority of Mr. Arnold, who was present, gives a different statement. The passage of the "Caroline" is thus described :—"We towed her out a short distance so as not to set fire to the wharf; then we cut her adrift and abandoned her to the current. She glided about two hundred yards down stream, when she stuck fast on a bed of rush weeds, near the American shore. After a while she got herself loose, and passed on down the river, but the lights soon went out, and my belief is that she sank to the bottom then and there. Her engine was distinctly visible at the bottom of the river near that spot many years afterwards, and if any portion of the vessel went over the falls, it could only have been isolated pieces of her timbers. The rebels on Navy island, seeing the lights suddenly quenched, took it for granted that she had gone bodily over the falls, and were the first to spread the report to that effect. When a sensational story of that kind gets afloat, it is not easily checked in its career. A few moments' consideration would convince any one familiar with the spot that the 'Caroline' could not by any chance have passed bodily over the cataract." With these contradictory narratives, there is no other course to be taken than to give them as they have appeared.

had consisted of Canadian militia and volunteers. Those present who had served in the navy were retired officers, and were at the time occupiers of homesteads in the province. The expedition had been a purely provincial undertaking, the commanding officer who authorised it, colonel MacNab, being speaker of the house of assembly. The circumstances under which the affair had been effected came to be better understood. A body of sympathisers had seized an island, a portion of British territory, under the leadership of a Canadian fugitive from justice. Subscriptions of money, arms, clothes and accoutrements had been obtained from the neighbouring cities. The steamboat, cut out from the ice, and having obtained a fictitious clearance, was engaged in carrying provisions and men to aid the insurgents. She had commenced busily to ply in the performance of the duty; nevertheless, it was conceived that while lying at a United States port she was protected from attack, and could on the following morning re-commence her aggressive operations. The movement had even taken the form of a declaration of independence; a fictitious provincial government had been declared, while a United States citizen had taken service as the commanding general.

It remains a question if the course taken in the burning of the "Caroline" was, or was not justifiable. The assertion can safely be made that the United States, in parallel circumstances, would not hesitate to act summarily, to remove any such instrument of offence. The argument in the affirmative lies in the fact, that a large number of United States citizens, without provocation, had engaged in positive war against a state with which their government was at peace, urged forward by refugees, who had abused the asylum they had obtained.

It is due to the United States authorities that they really desired to restrain all breaches of national amity; where there was failure in this respect, it was with the officials of the state of New York. The president directed the secretary of state, Mr. Forsyth, to call the attention of

governor Marcy of New York to the attempt being made against a foreign power in amity with the country, and similar letters were addressed to the governors of Vermont and Michigan. At the same time, the destruction of the vessel awoke a strong feeling against the British government. The act was regarded as an invasion of United States territory, unwarranted by the law of nations, and unjustified by circumstances. It was the subject of a message from the president to congress, in which he declared that reparation would be demanded. Throughout the northern states public meetings were held to denounce the outrage, and the press did its best to increase the excited feeling.

President Van Buren was sincerely desirous of avoiding extreme difficulties with Great Britain, and many public men of the United States withheld their sympathy from the rabble who had engaged in Mackenzie's attempt. In the house of commons, lord Palmerston, so late as 1841, declared the proceeding perfectly justifiable by the duty of defending her majesty's territory. The matter was subsequently complicated by the arrest of Alexander McLeod on the charge of murdering Amos Durfee, the one man killed at Schlosser, whose body was left on the wharf. Lord Palmerston demanded Mr. McLeod's immediate release. The demand was refused on the ground that the decision must rest with the state of New York. The federal government, however, vindicated his arrest. McLeod was tried in Utica in October, 1841. Several witnesses swore that he had himself stated he was present and had killed a man; and evidence was brought that he was seen to get into a boat on starting, and get out of it on the return of the expedition. An alibi was sworn to, to establish his absence, and sir Allan McNab and a dozen of the men who took part in the affair, swore positively that McLeod was not present. The difficulty to which he had been subjected arose from his foolish boasting and gasconade. He was found not guilty, and thus the prospect

of war between the two countries was averted, though at one time its danger was not slight.

The dissatisfaction arising from the act remained unaccommodated until 1842, when Mr. Webster was minister to England. A settlement was then effected, caused to no little extent by the esteem in which Mr. Webster was personally held, and his known friendship to England. In July, 1842, he called the attention of sir Robert Peel to the subject. It was not, he said, a question if the act was justifiable or unjustifiable. "It was of itself a wrong and an offence to the sovereignty and dignity of the United States, being a violation of their soil and territory; a wrong for which to this day no atonement or even apology had been made." Sir Robert Peel immediately sent the following declaration :

"Nearly five years are now past since this occurrence; there has been time for the public to deliberate upon it calmly, and I believe I may take it to be the opinion of candid and honourable men, that the British officers who executed this transaction, and their government who approved it, intended no slight or disrespect to the sovereign authority of the United States. That they intended no such disrespect I can most solemnly affirm; and I trust it will be admitted that no inference to the contrary can fairly be drawn, even by the most susceptible on points of national honour.

"What is perhaps most to be regretted is that some explanation and apology for this occurrence was not immediately made."

Mr. Webster replied that the letter had been submitted to the president, who was content to accept these acknowledgments and assurances, in the conciliatory spirit in which they had been offered.

The collapse of the insurrection in Lower Canada, on the 12th of December, at Saint Eustache, left the troops at the disposal of sir John Colborne, and the 24th regiment was ordered to Upper Canada, to proceed to the Niagara fron-

tier. The island was evacuated on the night of the 13th of January. Admiral Drew's account suggests that no additional force had been received. He had made a reconnaissance, and determined the course of action he would take on its assault. The sympathisers holding the island received information of what was intended, and during the night abandoned their position, passing over to Grand island, on the territory of the United States. Some heavy guns, however, and mortars had been brought upon the ground, and the fire directed against the island made it untenable. The influence of the United States authorities was likewise exercised, for the artillery and munitions obtained from the arsenals had been claimed on the part of the States. General Arcularius, the commissary general of New York, on the 2nd of January had asked from MacNab a suspension of the attack, until he could demand the possession of the arms and munitions belonging to the States, obtained clandestinely. MacNab replied, stating his acquiescence with the request. On the 5th Arcularius again wrote, sending a copy of a letter he had received from Van Rensselaer, to the effect that the arms were considered to be donations. He had consulted the "provisional government," and he had been instructed to make inquiries regarding the property in question, and when the information had been obtained, he would again communicate with the commissary.

Arcularius thanked MacNab for his forbearance and courtesy, adding that he could ask nothing more, and "if the poor, deluded beings who have encamped on Navy island are slain, their blood be upon their own heads and not his." General Scott was in command of the federal troops on the frontier to preserve peace; but it cannot be denied that his efforts to restrain the feeling of hostility that had been called forth were fruitless.

The loss of the provincial troops before Navy island, independent of the attack upon the "Caroline," was three killed.\*

Mackenzie had previously been arrested for breach of the

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\* [Journals of assembly, 1837-38, p. 264, MacNab's Report.]



neutrality laws and held to bail for \$5,000. On Van Rensselaer reaching United States territory from Navy island, he was likewise made a prisoner on Grand island, and held to bail on the same charge.

On the 15th, Navy island was taken possession of by the Canadian militia. Of the sympathisers a few remained on Grand island, but the greater number crossed to the mainland. The supporters of this movement, however, did not abandon their design of fomenting rebellion in Canada. The myth that the province, ready for revolt, would welcome the sympathisers with open arms and join them in the field, still found ready credence. They chartered a steamer, the "Barcelona," to carry all willing to join in the enterprise to the Detroit river, and to form a part of the force assembled to continue the raids in that direction. To meet this movement Drew anchored his three armed schooners in the channel, to watch the movements of the "Barcelona." The proceeding led to a protest on the part of general Scott, in command at Buffalo. A correspondence followed, in which the right of self-protection on the part of Canada was asserted, and that if the schooners were in United States waters it was only in accordance with the treaty, for it was in a time of peace. Scott, on his part, affirmed that he and the civil authorities were most anxious to preserve peace, and that they had the means of maintaining it. The "Barcelona" did not sail, no doubt restrained by the United States authorities. It was fortunate that such was the case, as it had been determined not to allow her to proceed to her destination, and the complications, then sufficiently serious, would have been increased.

It was at this date, on the 10th of January, that lieutenant Elmsley with a boat's crew, when engaged in examining the channel between Navy and Grand islands, was called upon by officers in the United States uniform to explain the duty on which they were engaged. Elmsley answered they were examining the channel, upon which he was called upon by his interrogators to come ashore. Elmsley declined so to do, when the dozen privates who were with him dis-

charged a volley against the boat. Fortunately, no one was hurt. The matter was brought by MacNab to the notice of general Scott. All the explanation he could offer was that they belonged to the militia of New York, and were not under his command. What expostulation Scott may have thought fit to offer, was not communicated to MacNab. But it was one of the many proofs of the lawless sympathy that Mackenzie had been able to awaken.

## CHAPTER IV.

Towards the close of 1837, reports reached Toronto of a spirit of disquiet that was affecting a certain portion of the population in the neighbourhood of Windsor. It had been kept alive by the operations in Navy island, and communication had been maintained between the leaders at the two localities. Several refugees had found a home in Michigan; and at the same time many sympathisers in the neighbourhood of Detroit were active in encouraging them. As events subsequently shewed, the numbers embraced in the organisation in Canada were exceedingly limited, and no Canadian took part in the attempt that followed.

Sutherland was sent by Van Rensselaer to conduct the operations. He made his first halt at Cleveland, lake Erie, where there had been shewn some activity in completing the organisation, and where 200 of the population, of the same class as those at Buffalo, men in summer employed on the lakes, and who had no regular occupation in the world, had engaged to take part in the "liberation of Canada." Gourlay, whose name has previously been mentioned, was then living at Cleveland, and he exerted himself in influencing those who were compromised, to break off from the undertaking. He was not in all cases successful, but he communicated important information to sir Francis Head, for which he received the thanks of the lieutenant-governor, and an invitation to return to Canada. For the time, however, Gourlay declined to act upon it.\*

Sutherland, on leaving Cleveland, proceeded to the state of Michigan at the junction of the river Detroit with lake Erie. He found there a Mr. Henry S. Hand, of Illinois, who was present to conduct the expedition against what was

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\* [Ante, VIII., p. 238*n*.]

then Western Canada, and had the rank of commander-in-chief. There were also major-general Wilson and brigadiers Roberts and Theller, the latter commissioned to command the first brigade of Irish and French troops to be raised. The agitators then commenced their efforts to obtain men and munitions of war. In the midst of this organisation, the governor of the State notified the leaders that he would be compelled to disperse the force, and suggested that they should assemble at some other locality. Handy had secured a supply of arms and provisions, with the means of transport, and had evidently mapped out an invasion on a large scale. The cannon and muskets which he had obtained from the state arsenal of Michigan had been transferred to the locality he occupied by the schooner "Anne."

These proceedings had been brought to the notice of the governor of Michigan by the Canadian authorities, and he had declared his desire to prevent any infringement of the neutrality laws. A steamer, the "Macomb," had been obtained to tow to her destination the "Anne," which had been taken down the river, her sails being in another vessel. The "Macomb," however, had been impounded by a party of United States troops. A second steamer, the "Brady," which had been chartered, met the same fate. The "Anne" was accordingly towed by row boats to the river Rouge, where she took her sails on board, and continued her voyage. While descending the river, she was met by the "United States," a government steamer. It was a matter of complaint, that, notwithstanding from the appearance of the schooner, with cannon on the deck, and many men on board, evidently independent of her crew, there could be little doubt of the character of the vessel, she was allowed, unmolested, to proceed on her way.

Handy had received private information, that on the 18th the governor, with the "Brady" guards, would arrive to disperse his gathering at Gibraltar. He determined, therefore, without delay, to take action. He ordered one of his brigadiers, Roberts, to proceed with the schooner "Anne" containing

the cannon, munitions and provisions, with the boats and yawls carrying the fighting men, to Bois Blanc island, in British territory, opposite the barracks at fort Malden. Three guns, with thirty men to work them, were to be left on the schooner, while temporary fortifications were to be thrown up on the small island. The British fort Malden was to be summoned, and, if not surrendered, to be cannonaded. Handy, with the troops under a colonel Davis, was to proceed to Windsor, there take possession of the public stores, and then march to Malden, sixteen miles distant. This read very well upon paper; but as no support of any kind was to be given in Canada, the gigantic folly of the undertaking soon became apparent, with the certainty that it would meet with ignominious failure.

On the 7th of January Handy started to confer with Davis, who had been ordered to ascend the river. Shortly afterwards he received a despatch informing him of the arrival of Sutherland with 200 men from Cleveland. Sutherland, by virtue of Van Rensselaer's instructions, claimed the chief command. Handy consequently returned to Gibraltar point, where a council of war was held, at which the contingent from Cleveland would in no way recognise the authority of the "north-western" army. It was finally agreed that Van Rensselaer's authority should prevail, but that Sutherland should take command in the field. Theller had sustained Sutherland at the council, and, as a consequence, was placed in charge of the schooner "Anne." He was an Irish American, claiming to be a doctor who had practised his profession in some of the country parishes of Lower Canada. Sutherland, as general-in-chief, undertook personally to direct the operations.

These movements could not be concealed from the Canadian authorities, and colonel Prince had addressed governor Mason on the subject. The Michigan militia had been called out and collected at the main points, where it was expected the attack would be organised. A landing, however, was made in United States territory on Sugar island, whence Theller, in the "Anne," sailed into Canadian waters towards



Bois Blanc island. On passing the port, the schooner was hailed by the sentry, who, receiving no reply, fired into her, to which Theller replied by discharging a gun loaded with grape upon the village of Amherstburg, which is situated a short distance below the fort. He then returned to Sugar island. On the 9th, Sutherland called for sixty volunteers, with whom he landed on Bois Blanc island, where he hoisted a tri-coloured flag and issued a proclamation. It was signed by himself, as commanding the second division Patriot army of Upper Canada.\*

Theller sailed towards the Canadian shore to sustain the movement, but the schooner, being badly rigged and unmanageable, drifted towards fort Malden. Theller described her as running aground, when she was exposed to a vigorous attack of musketry. It was on this occasion that the militia performed one of the most gallant acts of those troublous times. They plunged up to their waists into the icy cold water of a Canadian January, and stormed the schooner in gallant style. Amid the loudest cheers, the flag was hauled down and the vessel taken. The man at the helm had been shot dead. Theller and twenty of the crew were taken prisoners. Of the latter, eight were wounded. She contained what was then greatly needed in the west, arms and munitions, viz.: three cannon, 200 muskets with bayonets and accoutrements, and a quantity of ammunition and stores. The capture had an extraordinary effect on Sutherland. It appears to have paralysed him, for he withdrew from Bois Blanc island to Sugar island; a retreat that cost him the confidence of his men. The authorities at that date also interfered, and the men composing the expedition were dispersed.

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\* This proclamation is representative of Sutherland's capacity for command. It ran: "You are called upon by the voice of your bleeding country to join the Patriot forces and free your land from tyranny. Hordes of worthless parasites of the British crown are quartered upon you to devour your substance—to outrage your rights—to let loose upon your defenceless wives and daughters a brutal soldiery.

"Rally, then, around the standard of liberty and victory and a glorious future of independence will be yours."

The officer who directed the operations against general Theller was colonel Radcliff, who had been placed in command of the western frontier. He was an old peninsular officer, who had established himself in the township of Adelaide. He had seen much service in the 27th Inniskillens, and had been in twelve engagements. Having first been commissioned to raise a regiment, he had been afterwards placed in command of the western district. On the collapse of the rebellion, in 1838, the regiment was disbanded. A ball was being given at the house of a Dr. Phillips, residing near Adelaide, when a courier arrived with despatches informing the commandant of the attack at Windsor. The ball was broken up, and the officers who were present left to summon the men. They were gathered together as rapidly as possible and the regiment marched towards the west. A thaw, however, set in, and it was impossible for the troops to proceed further than Chatham. Colonel Radcliff, with two or three attendants, descended the river Thames to lake Saint Claire, and coasted the shores of the lake till he reached the Detroit river, which he followed to Sandwich. The party suffered some privation, the journey having occupied two days and two nights. Without taking any rest, Radcliff placed himself at the head of a small force, and advanced to Amherstburg. He was in time to take command in the successful effort to repel Theller's attack on the 9th of January, which ended in the capture of the vessel and the crew. It became also his duty, to make arrangements for the sustenance of the troops, and to place the force in a proper organisation. It may be said here that a motion was subsequently made in the house of assembly by colonel Prince for the presentation of a sword to colonel Radcliff, but it does not seem to have gone further than this proposition. Radcliff was subsequently appointed a legislative councillor, when he removed to Toronto. In 1841, after the union, he was appointed the collector of customs in that city; but before he could enter upon the appointment, he died on the 9th of June of that year.\*

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\* Colonel Radcliff was a man of great physical strength, having been six feet

Theller and the prisoners were brought to trial at Toronto, where they were sentenced to transportation. Sutherland proceeded to Detroit, and endeavoured to organise another expedition; but his influence for mischief no longer prevailed.

There was an attempt on the 24th of February to seize Fighting island, below Sandwich, in the Detroit river. McLeod had been sergeant in the British army, and is said to have been in charge of a school at Brockville. After the rebellion he sought refuge in the United States and was appointed a general in 1837. He and his men were so summarily driven out of the place, that scarcely any mention is made of the expedition. A field-piece and a large number of muskets perfectly new, stamped as the property of the United States, were left behind in their flight.

On the 3rd of March, Pelée island was occupied by a body of sympathisers. This island is in lake Erie to the south west of point Pelée, in Pigeon bay, in the county of Essex. It is some fifteen miles from the shore between Kingsville and Leamington. One Bradley with about 500 men had crossed over from the opposite shore in boats, and had taken possession of the island. His first proceeding was, to make the few inhabitants of the place prisoners, and it was then but thinly inhabited. It is now populous and cultivated, producing grapes of the most delicious flavour, and is the spot where much Canadian wine is manufactured. The property of those dwelling on the island was taken in possession for the use of the invaders.

Colonel Maitland was in command at Amherstburg, where the report of this outrage reached him. Having verified the fact through officers of the local militia, who, on approaching the island had been fired upon, moreover, as

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four inches in height. He weighed 20 stone, with great powers of endurance, which had attracted attention even in the Peninsular campaigns. At his death he was only 47 years of age. It was considered, that the seeds of the disease from which he died were contracted on the journey in the open boat from Chatham to meet the attempted invasion at Amherstburg, for he was but little advanced beyond the prime of life.

having learned that several persons who had gone to the island from the mainland had been detained as prisoners, he despatched captain Glasgow of the artillery, on Thursday, the 1st of March, to test the strength of the ice. On the following day at noon, Maitland learned that it was practicable for artillery. Consequently he determined to attack on the following morning at day break. His force consisted of 4 companies of the 32nd, 1 company of the 83rd, two 6-pdrs., 20 troopers of the volunteer cavalry of Sandwich and Essex, and a small party of Indians. Leaving on Friday, the 2nd, at 5 o'clock, Maitland marched along the lake shore, 18 miles, to a point where he bivouacked. At two in the morning of the 3rd of March, he started to the attack, and arrived at the island 20 miles distant, at day break. Captain Browne, with two companies of the 32nd and the cavalry, was placed in a position on the south to intercept any attempt at escape. Maitland landed at the north of the island with his guns, but the invaders fled as he advanced, taking to the bush. From the Canadians who had been made prisoners he heard there were 500 present. The troops followed in extended order, but the wood was thick, and the snow deep and heavy, so that the advance was slow. The invaders, all of whom were United States citizens, retreated to the south. Seeing before them Browne's force of two companies, some 90 men, they advanced in line, 300 men, well armed and organised. A first fire was exchanged, when Browne charged with the bayonet and drove them back. On a road in the wood they had a number of sleighs, so that they were able to carry off 40 of their wounded, while the remainder succeeded in reaching their boats and escaping from the island. They left dead on the ground, the commander, a colonel Bradley, with major Hondley, and captains Van Rensselaer and McKeon, and seven others. Of the prisoners taken several were wounded.

The loss of the royal troops was: 2 killed of the 32nd, and a private of the Saint Thomas troop of cavalry, with 28 wounded, many seriously, some dangerously.

Colonel Prince, Mr. sheriff Lachlan, captain Girty, and several gentlemen of the district, armed with rifles, accompanied the column and acted with the troops. Eleven of the invaders were made prisoners; a large tri-coloured flag, with two stars and "Liberty" worked upon it, was taken, and several United States muskets, with swords and ammunition.

Seeing the island clear of the invaders, colonel Maitland left at five o'clock, and marched his column back to Amherstburg, from which he was absent only forty hours, arriving there during the night. The men performed the arduous duty of marching 40 miles, 20 of which were across the ice, the night having been exceedingly cold.

Colonel Prince, on the day succeeding the affair of Pelée island, accompanied by one officer, captured the man, Sutherland, who had figured in the attack on Bois Blanc island. I cannot find the details of the capture, but it must have been by some stratagem, for Prince is spoken of as having "circumvented" him.\*

In 1838 the "Hunter lodges" were formed. Their origin to some extent may be attributed to the burning of the "Caroline," which created an extraordinary feeling of passionate anger among a large majority of the frontier population. To many it appeared astounding, that the petty province of Upper Canada, with its population of 400,000 souls, should have dared under any provocation to attack a steamer lying at a United States wharf. To such as these the very constitution under which Canada was governed, and the fact that it remained a part of the British empire, were the cause of painful dissatisfaction. It was especially to vindicate the claim of the United States to the whole continent that this secret society was formed. Men were initiated into it with great ceremony, and all took a solemn oath to be faithful to its object. If the published account of the oath can be

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\* Sutherland, when a prisoner at Toronto, expecting to be tried and sentenced to death, attempted to commit suicide by opening with a penknife a vein in each foot and in his arm. Owing to the period of time taken to obtain a surgeon, the attempt threatened to prove serious, but he recovered from its effects. At his trial he was sentenced to transportation for life.



accepted, the promotion of republican institutions, especially in North America, was the obligation solemnly assumed.

The members pledged their life, property, and sacred honour to the interests of the association; and that to death they would attack everything of royal origin on the continent, "especially never to rest, till all tyrants of Britain cease to have any dominion or footing whatever in North America." The usual secrecy and obedience were promised.

It is said to have originated in Vermont in May, 1838, but there was so little chance of any successful movement in Lower Canada, that the active operations of the society were transferred to the upper province. Money was freely subscribed, but the last intention of many of those who took prominent part in the organisation was to risk their persons or lives in support of the principles they professed.

We are indebted to Mr. Lindsey\* for a history of the proceedings, taken from the papers placed in his possession. A convention of the lodge of Ohio and Michigan was held at Cleveland from the 16th to the 22nd of December, 1838. A republican government was then appointed for Upper Canada, with a president and a complete cabinet, and a long list of secondary officials. There was not, however, perfect accord. As in such cases, jealousies and suspicions were beginning to be entertained. Dr. Duncombe is accredited with being an active member of the organisation, and the scheme is affiliated to him of having proposed the establishment of "The republican bank of Upper Canada," which in certain cases, controlled by the people, would issue a paper currency. It was to be a joint stock bank, 150,000 shares of \$50, thus making a capital of seven and a half millions. Subscribers were frankly told they would only receive interest for their money on the "triumph" of the cause. Otherwise, they would have to content themselves with the reflection that their contributions had been expended to establish in Canada "liberty, equality, and fraternity." The first duty of the bank would be to furnish loans to the so-called "patriot" cause. This

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\* [Life of Mackenzie, Vol. I., pp. 200-204.]

proposal came after the executions of which I shall have to speak. The notes issued by the bank were to have portraits of Lount, Matthews and Moreau. The proposal sounded well enough, but up to the 1st of November \$300 only had been subscribed, although the convention undertook to raise \$10,000 in a fortnight. The organisation was entirely in the hands of "United States men of poor fortunes." A Canadian refugee, "poor and penniless," as he describes himself, on asking relief from the funds collected, applied in vain.

The United States government was kept informed by spies of these proceedings, and endeavoured to learn all that was happening; but it was not possible to guard every point of the frontier, as events subsequently shewed. It must, however, be admitted that they endeavoured, as far as was possible, to render impotent the efforts that were being made. Sir George Arthur had also his spies. It was reported that 40,000 persons were in the organisation, determined to further the invasion of Canada, and lead to its admission as a state of the union.

I have somewhat anticipated in point of time the events which took place in connection with the "Hunter lodges," as this course suggested itself as the best means of making the matter plain.

Sir Francis Head assembled his last parliament on the 28th of December. The speaker, MacNab, was at this date with the troops before Navy island, and was unable to attend. Mr. Ruttan was accordingly elected to act in his absence. He fulfilled this duty until the 25th of January, when MacNab returned to the chair. The lieutenant-governor opened parliament with a speech, narrating the outbreak with the exaggeration of language always at his command, colouring the facts as he desired them to appear. He had the perfect confidence of the majority, and all that he said obtained respectful attention. In January, he sent messages to both houses, informing them, that on the 14th he had received intelligence of the acceptance of his resignation, and that he had been instructed of the appointment

of sir George Arthur, who would arrive at as early a date as possible. Addresses were immediately sent from the legislative council and the assembly, on the 16th and 17th of January, complimentary to him and expressing regret at his retirement. In consequence of this proceeding, the approaching departure of sir Francis became known. The supporters of the government throughout the country were accordingly enabled to prepare the numerous addresses that he received; he himself describes them as constituting a small volume. These addresses were subsequently forwarded to the imperial authorities, and were published in a parliamentary paper. Parliament was prorogued on the 6th of March. Sir Francis took leave of parliament and the province in a long speech, in which he dwelt upon the late events, especially alluding to the attempt at insurrection, and the devoted loyalty to our "revered institutions," concluding somewhat melodramatically with the word "farewell."

Sir Francis Head acknowledged on the 26th of January the acceptance of his resignation, which, in the language in which it was worded, virtually amounted to a recall. This despatch he reproduces in the volume of his "narrative" and it fills several pages.

The circumstance of the flag with Bidwell's name, captured at the affair at Montgomery's on the 7th of December, with the alteration of date, was well known; nevertheless, its discovery was mentioned in this communication, as a proof of Bidwell's complicity with the outbreak. It must be plain to all who consider this letter, that sir Francis' disappointment was great, when his resignation had been accepted. Sir George Arthur appointed to succeed him as the last lieutenant-governor of Upper Canada, arrived in York only on the 23rd of March; on the following day he was sworn in.

Sir Francis relates that in consequence of the excitement which had arisen owing to the destruction of the "Caroline," and to the fact that Mackenzie had offered a reward of £500

for his apprehension, he had regarded it to be unsafe to travel through the United States. He had, accordingly, applied to the lieutenant-governor of Nova Scotia, sir John Harvey, to obtain a passage in a man-of-war from Halifax. An arrangement to this effect was consequently made. It was a matter of belief that sir Francis, in his route through Lower Canada, would pass through Montreal; consequently he received an invitation from the citizens to a public dinner. It was signed by Peter McGill, John Molson and Adam Thom, on the part of the committee. The invitation was declined on the ground that he should in no way, directly or indirectly, tend to agitate any of the questions affecting the province. Head, however, had other views. He tells us that he had been credibly informed that a gang had determined that he should not leave the continent alive; that he had even been notified by a short confidential message from sir John Colborne, that there was a conspiracy to murder him on his way to Halifax. As we read this statement, it would seem that the attempt could have been easily guarded against by giving him an escort. Head, however, determined to pass through the states incognito, as the less troublesome route for him to travel. He had to cross the river to cape Vincent, opposite Kingston, a distance of upwards of 100 miles from Utica, at which place the railway could be followed to Albany, whence the steamboat would carry him by the Hudson to New York.

Although the navigation was not regularly opened, a steamer had been chartered to take the late lieutenant-governor to Kingston. He left government house immediately after his successor was sworn in, accompanied only by judge Jones. There was no other attendant with him. His departure had, however, become known, so that many attended to wish him "godspeed," and he left the wharf amid loud cheers. On his arrival at Kingston, it was generally supposed that he was on his way to Montreal. He there sent for colonel MacDonell, who had lately been appointed sheriff of the Midland district. The sheriff, on hearing of his inten-

tion, recommended that a line of sentries should be placed around Kingston for two or three hours after Head's departure, to cut off all communication, so that information of his design should not be carried across the river. At five o'clock the following morning he and judge Jones took their departure. Their luggage consisted of two portmanteaus. Accompanied by a few friends they entered the boat which was to take them to the southern shore. The river was full of floating ice, but the boat reached its destination in safety. They passed through Watertown, when they arranged for relays, to take them the remaining distance. At Watertown, Head had been recognised. Consequently, after the first stage they determined to change the conveyance for saddle horses, leaving their portmanteaus to follow by stage. They rode all night and reached Utica by sunrise. Twenty miles from Watertown, Head tells us that he was followed by 60 horsemen, evidently with hostile intent. From Utica there was no further difficulty. Head relates the courtesy with which he was received at New York, even when attending the theatre. It was in this city the last interview took place between him and Bidwell, that I have described. Accompanied to the wharf by Mr. Buchanan, the British consul, he was informed that a large crowd would be assembled at his departure; and at the consul's suggestion, the two walked through "the several thousand people," as Head describes them. How such a number could be crowded into the space of the wharf, it is difficult to conceive; the probability is that there were some hundreds. Whatever the number was, sir Francis passed through without molestation. Not a word was uttered, although there was some pressure towards him, so that he could be seen; he thus took his place on the steamer, which rapidly left her moorings.

It might have been conceived that as he left the shores of the continent, his connection with Canada would have closed; it was not so. Although he had been but two years from England, as he himself tells us, he found every-



thing new. He landed at Liverpool on the 22nd of April, at the close of spring. Railways were in operation, and a new spirit had grown up in the national tone of thought. Head himself could not go with this spirit. He watched every social and political movement with his own peculiar views that all liberal tendencies should be repressed. The last principle he could accept was that a province should be self-governing, uninterfered with in its domestic concerns, and kept solely within the limit of imperial consideration. Lord Durham's report, published shortly after his arrival, was peculiarly his aversion. He never could understand a system of responsible government, such as that able statesmen advocated, and he brought back to the mother country all the petty prejudices, and the small exclusive party sentiments which he had imbibed in the narrow community of a provincial city of 12,000 inhabitants. To the last he remained an opponent to the union of the Canadas, the measure which has preserved the province to the British crown, and has also brought in its train, peace, prosperity, political experience and self-restraint; further, which led the way to the present larger federation. It was a measure that received his unvarying opposition. He could not conceive, that those who had been compromised in the late troubles should receive a full amnesty; and that when they could command public support, they should be admitted to the office under the crown. In his view, there should be no change in the past. In his estimation, his own government was the model of wisdom, so that the inhabitants of the province should have nothing to say beyond the regulation of municipal life.

When lord John Russell introduced the union bill in 1840, chief-justice Robinson was in England. He had written to the secretary of state, stating that lord Durham's report was unsafe to be relied upon as the foundation for any parliamentary proceedings. His letters were acknowledged with the intimation that his further stay in London was not necessary. Head accordingly intervened, and wrote to sir Robert Peel,

"My dear sir Robert," recommending that the chief-justice should be retained in England "for so competent an authority" to give his testimony on the subject. Head knew perfectly well what that testimony would be. He was answered in the third person by sir Robert in an official letter, that any extension of leave was the matter of the colonial department. Finally Head applied to the archbishop of Canterbury to be allowed to address the house of lords. He was civilly told that the permission asked was contrary to all precedent. Head lived long enough to see all his prognostications with regard to Canada entirely fail. He died in 1879. In 1846 he published his "Emigrant," in which his opinions were given with the extreme exaggeration that marked his writings. One of the great efforts of his life was to vindicate his government. The appendices of the Upper Canada parliament for 1838-1839, after he left the country, were filled with his communications. He appears to have thought that no one should write his epitaph but himself; nevertheless, he failed entirely to leave the impress of his character and government, as he endeavoured to establish them. No writer has vindicated his memory from adverse criticism. The feeling with every student of history must remain that the exercise of good sense and firmness on the part of sir Francis, and a just appreciation of events as they were happening, would have made the Upper Canada rebellion an impossibility. There were warnings enough given of what was taking place, but he turned a deaf ear to all he heard. In after years he claimed to have served the country, whereas his obstinate adherence to his preconceived opinions brought on the crisis, which never would have happened had he acted with prudence, judgment, and statesmanship. The one monument of his government of Upper Canada is the lamentable record of the rebellion of 1837 with its deplorable consequences.\*

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\* Sir Francis Head could not complain of the money consideration extended for his service of a few days over two years. The following is the "return of sums paid, or directed to be paid to sir Francis Head as lieutenant-governor of Upper Canada as outfit, pay or allowance" :—

For passage out .....	£300	0	0
Extra allowance for ditto... ..	500	0	0
Salary, 25th January, 31st December, 1836... ..	2,806	0	0
“ “ “ “ 1837.....	3,000	0	0
Fees, 1836, 1837 and 1838.....	258	0	0
Salary, 1st January to 22nd March, 1838....	685	0	0
Extra salary for 1836 and 1837, ordered to be paid from casual and territorial revenue.....	1,000	0	0
Allowance for return passage... ..	300	0	0
Extra for ditto.....	230	0	0
	<hr/>		
	£9,079	0	0

THE ESCAPE OF DODGE AND THELLER FROM THE CITADEL,  
QUEBEC.

Theller may be remembered by his bold escape with Dodge from the citadel of Quebec. In 1841 he published two volumes "Canada in 1837-1838," in which he described himself as brigadier-general in the Canadian republican service, the book being dedicated to the vice-president of the United States. He here gives an account of his escape; but the whole work is so full of misrepresentation and gasconading exaggeration, that it is impossible to accept a single page as an authentic record. This is especially the case in the narrative of his escape. Throughout, conversations are interspersed much as they would be presented in a work of fiction, and it may be added equally imaginary. With other prisoners Theller was confined in one of the casemates. Sutherland was at first included in the number, but was eventually released, owing to doubts having been raised as to the legality of his conviction. The question had been referred to the law officers of the crown in London, who declared the proceedings against him to be contrary to law.

The escape took place on Tuesday, the 16th of October, 1838, between 12 and 2 a.m. Theller relates how he stupefied the sentry with drugged liquor. They had obtained files, with promises of assistance from friends in the city should they succeed in leaving their prison. Whatever credit may be assigned to Theller's narrative, the impression cannot be resisted that the discipline observed with regard to the prisoners was exceedingly lax, and that they were allowed, unrestricted, to commune with strangers, and so succeeded in establishing a mode of communication, by which they had been furnished with files that they could cut through the bars of the windows. Having effected the removal of a bar, and the vigilance of the sentry having been utterly destroyed by drugged liquor, the prisoners escaped through the window. They were five in number—Theller, Dodge, Culver, Hull and Parker. The discovery of Parker, owing to his stumbling over some timber, led to the knowledge of the escape. The cry of the picket having been heard, a search was commenced, which led the other four to drop from the rampart at the king's bastion into the ditch, some 40 feet in height. They managed to climb up the counterscarp constructed of dry masonry. Dodge had cut from the flag pole the rope by which they descended to the ditch. Theller, in his descent, dislocated his ankle, but with an effort he could walk. Dodge sprained his wrist; but Culver was so severely injured by the drop that he could scarcely move. Theller describes himself as leaning on Dodge's shoulder, and Hull as having carried Culver, and in this manner they descended the street from the glacis to reach the governor's garden. Theller proposed they should separate. Hull and Culver were helped over the palisade, and were told to conceal themselves under the shelter of some trees near the summer-house. Theller undertook, if they succeeded in effecting their escape, that he would send parties to conduct them to a place of safety. In the narrative he states he so acted. The two men, Hull and Culver, were eventually taken. Tired of waiting in the garden, and believing that their companions had been

made prisoners, they left the garden and entered a tavern at daybreak. The landlord suspecting them gave notice to the guard, and they were arrested.

Theller gives a narrative of the means of communication he contrived to hold with sympathising visitors, during his daily walks on the battery, exercise permitted on account of his health. It is plain that escape was thought impossible, and consequently greater latitude was allowed the prisoners. He relates, not that he bribed the provost sergeant in charge of the prisoners, but by petty presents and attentions so made him his friend, as to admit of intercourse with persons from the city. As to his wanderings to avoid detection, they are simply unintelligible, and he gives incidents and conversations which even the extremely credulous must doubt. One fact which is admissible is that the night was exceedingly stormy, and from that circumstance was chosen for the attempt. Finally, the two fugitives were enabled to escape to the frontier. One night Theller relates that he was concealed in a pit sunk in a stable in the house of Mr. Grace, a hardware dealer in Saint Roch. At last, joined by Dodge, the two left Quebec on Saturday, the 3rd of November; the escape from the citadel having been effected on the 16th of October.

The event caused an excitement in Quebec which has probably never been exceeded. The guard had been furnished by the Coldstream Guards, and the success of the attempt was looked upon as a disgrace to the discipline of the regiment. The drugged soldier who slept for hours after the event told the story, if not of his complicity, at least of his neglect of duty, bitterly to pay for his offence. The provost sergeant, Norman, by his relaxed surveillance, was held to have made the escape easy. For several days it was not considered possible that the fugitives could have left the city, and as it was believed that they were still secreted within the walls, the several convents were searched; but the men were carefully concealed, changing their place of refuge every few hours.

The Guards felt acutely the discredit the escape had brought on the corps, and offered \$1,000 reward in addition to the \$2,000 promised by the government for the apprehension of the fugitives. Although the escaped prisoners were concealed for a fortnight without the walls, and there must have been much that was suspicious in their movements, and some of the minor agents were men working for day wage of the smallest amount, it must be mentioned as a mark of the sense of honour of the humbler French-Canadians engaged in the concealment, that not a single one was led to betray the escaped prisoners, while the temptation to a struggling man with a family must have been very great.

The principal agents of the escape were Mr. Drolet, a Mr. Hunter, and a hardware dealer named Grace. They all subsequently became fugitives owing to the suspicion directed towards them.

We have a narrative of the escape to the frontier of Maine by one who directed it, Mr. J. B. Carrier, of Saint Henri de Lauzon, a village some six or seven miles to the south of Point Levis.\* Mr. Carrier relates that as early as July, he had been applied to by Mr. Drolet to pilot to the frontier some political persons. Mr. Carrier knew the route perfectly well, and his narrative leads to the

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\* Les Evenements de 1837-1838. Esquisse historique de l'insurrection du Bas Canada. L. N. Carrier, 1877.



belief that it had been often travelled by him when smuggling tea. The date suggests the deliberation with which the escape was planned, for it was not until the middle of October that it was effected. After some discussion the mode of carrying out the design was left to Carrier, and he was accompanied by one in whom he had confidence, whose real name was Heath, but who having been brought up by a family named Baconad, was so called.

Four horses were carried singly by the ferry-boat to point Levis, and Dodge and Theller having succeeded in crossing the river on Saturday, the 3rd of November, the men rode to Saint Denis de Lauzon. The Sunday was passed there; at this place their sympathisers furnished them with arms and money. They made their way thence to Saint Francois de Beauce, where, by unfrequented roads, they gained the Kennebec road. There was considerable danger in passing by this communication, for three pickets were stationed at intervals upon it. They were passed by Carrier with judgment and courage. The journey, however, has little historical interest, except for an incident which took place on arriving within the state of Maine.

When they entered the village tavern, the landlord was anxious to hear the news from Canada, and asked particularly if the travellers were Dodge and Theller. Carrier laughed and shrugged his shoulders, giving the landlord to understand that they were not the parties, for it is to be remembered Carrier had to return to his home by the route he had come. So prosaic a termination of his journey did not satisfy the unfathomable vanity of Theller. All that was present to his mind was himself. He never thought for a second of the debt of gratitude he owed to Carrier, who had risked so much on his behalf, not for gain, but from sympathy with the cause with which Theller was identified. Consequently Theller stepped confidently forward, and, confronting the landlord, said, "Why deny who we are? We are in safety. Yes, sir, I am Theller, and I have the honour to present my friend, Mr. Dodge." Had he been struck by a thunder-bolt, Carrier could not have been more surprised. He reproached Theller with his misconduct, and told him if he was in safety his guide was not.\* Carrier succeeded in escaping pursuit, but he underwent great hardships, and was constantly in danger of arrest. Finally, through the interest of Mr. T. T. Taschereau, he was admitted to bail, and was eventually included in the amnesty.

For several days Theller was believed to be in Quebec, when news reached the city that he was at New York and had addressed an audience at Vauxhall on the 13th, relating his escape. His language continued as threatening as it could be, when on the 5th of December he was arrested for setting on foot an expedition against the British provinces, and was held to bail. It was his last appearance as an agitator.

Some years afterwards, in 1857, when in South America, and engaged on the Panama railroad, I met Theller in Panama. He kept the Cocogrove hotel in the

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\* La foudre tombée à mes pieds n'eut pas produit plus d'effet. Je reprochai vivement à Theller son inqualifiable conduite, lui faisant observer que si Dodge et lui étaient en lieu sur, comme il disait, M. Baconad et moi avions encore de grands périls à affronter, que grace à cette déclaration intempestive ces dangers allaient se trouver décupler.

suburbs, one of the most beautiful spots I ever recollect to have seen. In the surrounding grounds were a variety of tropical trees and fruits. Hearing that I was from Canada, Dr. Theller favoured me with the recollection of many of his adventures, communicated in the gasconading spirit in which his book is written. I little thought in those days of active professional employment that it would fall to my lot to narrate Dr. Theller's career in Canada. Of late years I have regretted that at the time I made no notes of his conversation. The topic selected, however, was generally himself, and he always talked freely of his escape, and, so far as my memory helps me, his communication was a *replica* of his published adventures. Theller was kindly and good natured, and certainly not wanting in courage. He had the reputation in Panama of great determination, and not to be unwilling to engage in a quarrel wherever it might lead him. My connection with him there terminated.

There had been an escape from Fort Henry at Kingston a short time previously. The prisoners had learned that from the adjoining casement a subterranean passage led to the ditch, where they would have only the counterscarp to ascend. The wall was four and a half feet thick, and there was a door of two and a half inch plank to cut through. Furnished with a piece of flat bar iron and a spike nail, as the account goes, they effected their purpose. The *débris* that could not be concealed was carried in the pockets of the prisoners, and thrown away in their daily walk. The hole was concealed during the day by the beds placed against it. On the night of the 29th of July the passage was examined, and the scheme pronounced practicable. A scaling ladder was made from the boards of their bedsteads, which could be lengthened by pegs placed in the holes. There appear to have been fifteen prisoners, and they divided into three parties. In one of the parties was Montgomery, of Toronto. The whole succeeded in crossing the river except two, Porter and Wilson, who were retaken. In this escape they were assisted by men employed about the fort.

## CHAPTER V.

The new lieutenant-governor, the last who held that position in Upper Canada under the imperial authority, was sworn in on the 23rd of March, 1838. Although his government remains on record as lasting until the 10th of February, 1841, the day of the proclamation of the union of the provinces, it practically terminated on the 21st of November, 1839, on the arrival of lord Sydenham in Toronto who then assumed the government, and opened the last legislature on the 3rd of December. Sir George Arthur called but one parliament; that of 1838 had been prorogued on the 6th of March, previous to his arrival. The assembly in 1839 had sat from the 27th of February to the 11th of May. It is said that on lord Sydenham's arrival, sir George Arthur desired to retire, for he must have felt himself in disaccord with the policy that the governor-general was present to sustain. Moreover, the opinions he expressed and the course of action that he had recommended, had been entirely ignored by the home government. At lord Sydenham's request he consented to remain, but only with the understanding he should receive no emolument for his services after lord Sydenham's arrival in Toronto.\* His reward on his return to England was his creation as a baronet, and his appointment to the governorship of Bombay.

Sir George Arthur was born in 1784. Unlike most men of the day, he did not enter the army until his 20th year, and there is ground for belief that he attended some terms at one of the universities, and received the degree of D.C.L. He had seen service. He was present in Italy with sir James Craig in 1806. In 1807, he was in Egypt with general Fraser, and was wounded severely at Rosetta.

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\* This fact is positively stated in the National Biography.

The following year he was in Sicily with sir James Kempt. Until 1809 he was at Walcheren, again to be wounded at Flushing. He there distinguished himself, having with a small force taken prisoners a detachment of five officers and 300 men. In 1814, he was appointed lieutenant-governor of Honduras. While holding this office he suppressed a revolt of the slave population, an experience which, it may be believed, had not softened his heart, when considering the fate of the unfortunate prisoners, who were condemned to pay the penalty of having taken part in the insurrection of the year preceding his arrival.

His next employment was that of governor of Van Dieman's Land, then the principal penal colony; a school not to suggest the wisdom of popular institutions, or any kindly feeling for those who advocated them. Here he remained 12 years. In 1837 he received the Hanoverian order of knighthood, and as he was available for the position in Canada, on the acceptance of sir Francis Head's resignation, he was sent to replace him.

The honesty of sir George Arthur's character must remain unimpeached, but when we consider the situation in which Upper Canada was placed, requiring in a lieutenant-governor not simply firmness, but equally judgment and discrimination in the administration of affairs, it is not possible to recognise his fitness for the position he held. The opinions that he expressed justify this estimate of his personal character. He accepted the views of the men he found in power, as to the treatment to be meted out to the political prisoners under sentence. He partook of the spirit of vengeance, which was passing through the community, and strongly entertained by all those who had been active on the side of the government. We have only to contrast his conduct with that of lord Durham, and of lord Sydenham, to be fully impressed with the fact that sir George Arthur had neither the mind nor the training of a statesman. It was not the best preparation for the government of a constitutionally established province, as Canada was theoretically, whatever the false opinions of the

colonial office, to have subdued an insurrection of negroes, and to have carried out the strict, stern rule which a penal colony exacts. The language of sir George Arthur in his speeches and despatches conveys the impression that he was impressed with the theory that power should be centred in the lieutenant-governor, and that all who failed fully to recognise this absolute authority were dangerous persons, for "no abstract political opinion could be tolerated." It is one of the most noble of the acts of wisdom recorded of lord Durham, that in Lower Canada in 1837 not a man suffered for his participation in the rebellion ; and he had stronger prejudices to encounter and more passionate feelings of vindictiveness to overcome than any such feeling that claimed attention in Upper Canada from sir George Arthur. But lord Durham was firm in his mission of mercy, and early recognised the defects in the government, which men, by no means disloyal, had endeavoured to better. Moreover, in that day in Lower Canada, the point at issue was greatly complicated by the personal sentiment of race, for Papineau and his following had endeavoured to enforce French Canadian domination at the expense of the British minority. Nevertheless, lord Durham would permit of no harsh reprisals, and his humane enforcement of mercy overcame every opposing sentiment.

Sir George Arthur had not been a week in the country, when he was called upon to take action on the execution of Lount and Matthews. As might have been expected, an address was presented from the inhabitants of Toronto, which prayed for mercy. It would be difficult to detect the least impropriety in the language of the text of this paper, but sir George even at this date had accepted the opinions, and had been carried away by the influence of those about him, to whom sir Francis Head had lent so willing an ear. In his despatch he described it as an address of the reformers, who "had acted with great indiscretion," and that it "was calculated to rekindle a warm and unkindly feeling among the preponderating constitutional party." Lord Durham would have addressed the home government with no such



querulousness, and would have answered the address in a wholly different tone.

After congratulating him on his arrival and expressing devotion to the queen, the address continued : " The history of the province is before you, and an impartial inquiry into it . . . will enable you . . . to judge the reasonableness of the objects of the reformation for years sought." Sir George Arthur was likewise assured that in the promotion of public order he would have the prompt and energetic support " of the loyal, patriotic and constitutional reformers." They had observed with unmixed pleasure the desire of all parties in England that severe punishment should not be inflicted, and that a proclamation of amnesty had been authorised. The lieutenant-governor was told that he would have the noblest gratification of an elevated mind in "the announcement of pardon to the miserable and guilty."

Arthur's true answer to this address was the execution of Lount and Matthews within a fortnight. On this point more will be said. His written reply expressed his personal feelings, upon which, fortunately for Upper Canada, the arrival of lord Durham imposed so signal a restraint. He expressed regret that those who sent the address should present themselves in the character of reformers, an assertion it may be said at variance with the fact, for the address was presented on the part of the inhabitants of the city ; whereas Arthur allowed himself to infer by its text that those who had signed it had represented themselves to be reformers, as a distinct class of the people. He told them that punishment is only to be sanctioned as the necessary means of preventing the recurrence of crime, and he dwelt upon the specious delusion by which men were led to consider treason and murder as "being no other than reform."

On the 24th of March, six days after sir George Arthur was sworn in, Lount and Matthews were brought to trial before chief-justice Robinson. The prisoners pleaded guilty. They were addressed by the chief-justice with that felicity of language ever at his command, but its tone was merciless.

He had no discretion to exercise, "the awful sentence of death must follow," and there was no hope that pardon could be extended. They were sentenced to be hanged on the 12th of April.

Every effort was made to obtain a mitigation of the sentence; one of the arguments urged against any commutation was, that Lount had been present at Montgomery's when colonel Moodie was shot. If this reasoning prevailed, it would have applied to every one who had been there. Lount had been, undoubtedly, a prominent leader in the insurrection, but his complicity to the extent to which he was engaged, has only been known in modern times. What really told against him was dwelt upon in the address of the chief-justice, that he had been a leading member of the legislature. He was told when sentenced "that he had been admitted to the honourable privilege of making laws to bind his fellow men." \* This allusion to Lount's former position in the house was not without its political significance. Matthews had been head of the party which attempted to burn the Don bridge, and when so engaged he had caused the destruction of the property of a Mrs. Washburne. A man had there been killed, and one of the insurgents had fired upon a woman who had expostulated with them. Matthews' case was different from that of Lount. He had fought in the militia during the war of 1812; a fact which might have been remembered in his favour.

A petition with 4,000 signatures, asking for a commutation of the sentence, was delivered by the Rev. John Ryerson and Mr. Brough, a church of England clergyman, from Newcastle. They had asked for an interview to present it, and were received by sir George Arthur and his council. Brough opened the conversation, and referred to John Ryerson to sustain the petition. Ryerson affirmed that he knew the country well, and had lately passed through the principal districts, where he had met men of high respectability, strongly attached to British connection, and

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\* ["Lives of the Judges."—Read, p. 137.]

the pervading feeling was that the severe penalty should not be carried out. Arthur, after having listened with attention, replied that after the fullest consultation with the executive, and the most serious and prayerful consideration of this most painful matter, he had come to the conclusion that Lount and Matthews "must be executed."

John Ryerson brought to the lieutenant-governor's notice that his brother, Egerton, with the Rev. J. Stimson, four weeks previously to the outbreak had waited upon sir Francis Head, and had reported the movements at Lloydtown and other places, and that he would take no notice of the communication. Similar information had been given to the attorney-general, who was equally passive.\*

A petition, numerously signed by persons of all classes, was presented to sir George Arthur by Lount's wife, who on her knees prayed for mercy. He remained equally unmoved by the argument used in this personal appeal. The matter had been referred by the executive council, to the chief-justice, and to the attorney-general. Neither could recognise any ground for pardon or respite. The sentence was carried out. Both walked to the gallows with firmness. They were attended by clergymen. As the Lord's prayer was being repeated, the drop fell.

The execution made a profound sensation throughout the province. Arthur wrote that "he was happy to say it had produced the most salutary effects." One of the grounds of his complacency was that it satisfied the loyalists.<sup>†</sup> But a most painful feeling was created, that hereafter there was to be the sternest repression of every attempt to obtain constitutional government. Men did not talk of rebellion; their

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\* ["The story of my Life."—Dr. Hodgins, p. 183.]

† "On the one hand it has demonstrated to the disaffected that the government looked upon the crime of rebellion as of the most heinous character, and that no weakness or apprehension existed on the part of the authorities to prevent the infliction of punishment upon traitors, while, on the other hand, it has generally satisfied the loyalists, who some short time since did not hesitate to express their opinions as to the considerable extent to which the last penalty of the law should be carried into effect." [Par. papers, No. 2, p. 297.]

remedy was emigration.\* The general feeling was to seek a home out of the province, where less arbitrary principles of rule would prevail. A few governors of the character of sir Francis Head and sir George Arthur would have led to the depopulation of the country. As we contemplate such a possibility, we must the more honour the policy of lord Durham and of lord Sydenham, both of whom saw the remedy that would quiet the discontent and distrust, and applied it with genius and courage.

The execution found no favour at home. Lord Glenelg wrote to Arthur, that he had read in the public papers the account of the execution. He had every confidence that a calm and dispassionate consideration had been given to the case of these persons, before his consent had been obtained that the law should take its course. The colonial secretary was happy to learn through the same channel that no further executions were to take place.† A week later lord Glenelg wrote that "his majesty's government regret that a paramount necessity should have arisen for the examples of severity,"‡ and the earnest hope was expressed that no further capital punishment would be necessary.

It is a painful duty to express the belief that the extreme punishment of Lount and Matthews might have been avoided. There were, doubtless, remorseless advocates of a retaliatory vindictiveness, who justified this act of severity, and were prepared to continue the same relentless policy. As in all small communities, political feeling in the province ran very high, especially in the centres where there was any assertion of opinion. It is plain that sir George Arthur was led to believe that the strongest measures were necessary to subdue what was asserted to be the spirit of the disloyalty. Personally, he had no sympathy with liberal institutions. His own words prove that he failed to understand the

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\* See in "Story of my Life," Dr. Hodgins, a letter from Egerton Ryerson, dated Toronto, 22nd April, 1838.

† 22nd of May.

‡ 30th of May, 1838.

breadth, wisdom, and political penetration of lord Durham's report. He pointed out that the recommendation of responsible government it contained was the same as that which had been advocated by Mr. Bidwell, Dr. Rolph and Mr. Mackenzie,\* as if he was advancing a sound argument by the assertion. Sir Francis Head in his "Emigrant" in 1846, fatuously said "my prophecies have all been fulfilled." He lived until 1879. Had he seen fit afterwards to publish a second volume upon Canada, he would have had to retract the greater part of the statements he had made. In the narrow spirit of one without experience in political life, Arthur could not comprehend the arbitrariness of the government he was to administer, and he had accepted the view, that the one policy to meet political dissatisfaction was that of repression and severity.

There can be but one opinion in modern times of this execution, that it was unwarrantable, unnecessary, and vindictive. The sentence itself furnished sufficient warning, and the commutation to transportation would have fully satisfied justice. Lount and Matthews were, undoubtedly, active participators in the outbreak. The majority of those present believed that they were simply engaged in a political demonstration.† Only a limited number of the men who, certainly, lawlessly assembled, were deficient in allegiance to the mother country. It may be safely said that the thought of separation entered into the minds of but few. The misfortune was, that those who held possession of power and influence would listen to no proposal for any

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\* 17th of April, 1839.

† One of the authorities for this statement is senator Gowan. He was at the time a law student, with Mr. Small, who was engaged to defend many of the prisoners implicated in the movement. It fell to Mr. Gowan's lot to be brought into personal contact with several of this class. He has assured me, and his high character gives weight to his words, that this conviction was strongly established in his mind by his intercourse with these unfortunate men; that armed resistance to authority had never been contemplated. The fact is also stated in the volume, "Hon. James R. Gowan, &c., &c. A memoir," by A. H. A. Colquhoun, p. 17.



constitutional change. To the last they assailed lord Durham's report, and persevered in their protest against the union of the provinces. It is most essential, also, to bear in mind the distinction between the Canadians whose fortunes were centred in the province; and the rabble from the United States who entered Canada, as invaders, without the slightest stake in the province, on the mischievous instigation of Mackenzie. They were simply filibusters, without a scruple as to the lives they sacrificed, the property they devastated, or the wretchedness they caused. In such cases the leaders were considered to suffer justly; the dupes who constituted the rank and file were dealt with more leniently, as having been themselves deceived, and, from this fact, deserving of some consideration.

Sir John Colborne was not a man to remain idle during this threatened armed interference by the sympathisers across the line. The ill feeling that had arisen from the destruction of the "Caroline" became intensified, and, owing to the disturbances which distracted the province, the Maine boundary pretensions of the United States had assumed ominous prominence. It looked at one time as if war with the republic were not entirely improbable. On the opening of the navigation, men-of-war and transports arrived with reinforcements, and Canada ceased to be in the indifferently protected state the province had presented the preceding months. Engineer officers were despatched throughout the country to place in repair the forts that required attention, and during the summer many public works were constructed. Barracks were built in Lower Canada, in Laprairie and Chambly; buildings were obtained in Montreal for the troops quartered in that city. At Amherstburg, fort Malden was placed in better condition. Barracks were constructed at London and Niagara; Mississauga fort was made defensible as far as possible, and new barracks were begun at Toronto, while fort Wellington at Prescott was strengthened.

The crushing defeat of the invaders at Point Pelée on the 3rd of March was succeeded by some weeks of quietness.

Although many prisoners had been tried at Hamilton and the death sentence pronounced, there had been no capital punishment enforced since the execution of Lount and Matthews. The unmistakeable views of the home government on this point doubtless deterred the lieutenant-governor from the severity that he was not unwilling to exercise.\*

The first disturbance was the destruction of the steamer "Sir Robert Peel." I have recorded the particulars of this outrage in my account of the administration of lord Durham.† The act was represented as a reprisal for burning the "Caroline." But how different from that bold and gallant undertaking was this cowardly, contemptible outrage, which consisted in the attack by numbers of disguised ruffians of an unarmed passenger vessel, at the dead of night, while taking in wood at a wharf, and when the passengers were in their berths, generally asleep. It was one of the acts of the Hunter lodges, and may be considered the most despicable of the several vain

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\* Sir George Arthur's own opinions are clearly stated in his despatch of the 30th of May. [Par. papers, p. 269.] "Those who remain are prisoners of more importance : persons deeply implicated in treason and crimes attending on it, the pardoning of whom, in the firm opinion of the council, would be neither just nor safe. They are generally men of some property and influence, and of decidedly disaffected principles. To let them loose upon a community which has suffered so much at their hands, and which was threatened by them with so much more, would not be attributed to merciful motives, but to fear of their friends in the country, and of American sympathisers, and they would only be released again to fall into the ranks of the enemy or to lead others astray.

"It has been, indeed, an embarrassing question to discover what to do with them. Confinement in the province would only promote attempts at rescue, and would not in the end rid society of them. Simple banishment, for reasons explained above, would be worse than useless. To extend the punishment of death much further was to be avoided. In short, after much consideration, it was determined that the only way left effectually to rid the country of these men was by commuting their punishment into transportation to one of her Majesty's penal colonies.

"The sentence of transportation has been passed upon these criminals, not merely for the sake of just punishment of crime and for the deterring of others from following a pernicious example, although in that point of view severe punishment is requisite, but in a more than ordinary degree in justice to the loyal and innocent, with whose security and peace the retaining the prisoners in the colony, or leaving them so near as to work its evil, are inconsistent."

†. [Ante, p. 127.]

and fruitless performance of their unscrupulous agents. No one of the enterprises they set on foot but was characterised by consummate folly in its conception, and disgraced by incompetence and even cowardice in its execution.

An expedition of this character was the attack of a party of lancers at the Shorthills. There was no object but mischief and marauding in this effort, for no political result could have been anticipated. The facts were ascertained and examined by solicitor-general Draper, who officially drew up a narrative\* of the event. On the 10th of June, 1838, a party of 29 or 30 sympathisers collected near fort Schlosser above the falls. The leader was one James Morrow,† a citizen of the United States, who called himself colonel; the major was one Benjamin Wait, a native Canadian. Four or five of the others are mentioned as having been present at Montgomery's, and also with Duncombe; their nationality, however, is not given. They assembled at Grand island where they received arms and ammunition, and, having remained there a few days, crossed over by night to the Canadian shore. They made for the woods by the township of Crowland, carrying with them 50 or 60 stands of arms. Among the insurgents was one Chandler, a native of the United States; he had for some time lived in Canada and knew several of the inhabitants, and was thus enabled to obtain provisions from them. The bread he required was bought at Chippewa. The next movement of these men was towards the Shorthills, where they established themselves in a barn belonging to one Lewis Wilson, who was then absent in Buffalo. They did not remain long in the barn, but encamped in the woods. The sympathisers in the United States, hearing nothing of what the invaders had accomplished, sent over a law student named Butler to inquire; but by this time the news that the party had entered Canada was known, and the frontier was guarded so he could not

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\* 25th July, 1838. [Par. papers, 2, p. 332.]

† He is so called in the Canadian records. There is, however, ground for belief that his true name was Moreau.

return. On the 20th, they were joined by five or six persons from the United States, who brought a message that general McLeod, whom they had seen at Navy island, would immediately be with them with 300 men. Morrow, finding himself unsupported, expressed his disappointment, and suggested they should return whence they came; others who were present thought that something should be done, and proposed attacking a small party of the lancers stationed at a place known as Saint John's. They consisted of a cornet, sergeant, trumpeter and eleven men. After robbing two houses, one of \$1,000, a second of \$300, towards midnight of the 20th of June they reached Osterhout's tavern, where the lancers, seven in number, were quartered. On perceiving their approach, the sentry fired his pistol, and gave the alarm. The attacking party answered the fire with rifles and muskets. Finally a quantity of straw was brought into the house and set in a flame. The lancers, judging from the smoke that the house was on fire, and fearing that they would be burned alive, surrendered. It was now dawn. Their horses, arms and accoutrements were taken in possession. One of the party was seriously wounded. The troopers estimated that 100 men were present at the assault. The lancers were taken prisoners to the woods, but after a short period were liberated.

On the morning of the 21st, the whole country was in motion, and the militia were hastily called out to arrest the marauders. Chandler was apprehended in an attempt to purchase food. The thirty that remained divided themselves into small groups, the more easily to escape. Thirty-one were arrested; among them were Morrow, Wait, McLeod and two women. Five of the number only were citizens of the United States. The remainder were British subjects by birth, or naturalisation, or were aliens, who from local residence owed allegiance to the province. The prisoners declared that they expected to be joined by many discontented Canadians, and that, if successful in holding possession of a place on the frontier, they would have been reinforced by large numbers

of United States citizens, well provided with munitions of war. They declared that deposits of arms had been formed on many points of the frontier, and on Grand island. Leinster, Manchester and fort Schlosser were specially named as so furnished. Chandler was found to have with him a proclamation dated the 7th of June, in which the capture of fort George and Mississauga was announced. Wait had on his person a flag with two stars, and the word "Liberty."

Of the prisoners three were discharged, as there was no evidence against them; these men having been able to prove their absence from the province during the outbreak. Morrow was tried and sentenced to be hanged on the 30th of July; and that sentence was carried out. There was a strong desire to hang Chandler, Wait and McLeod, and especially one Beamer. Lord Durham, however, intervened and directed that no further executions should take place. Sir George Arthur, to whom it would seem mercy was unknown, strongly protested to lord Glenelg against lord Durham's merciful decision.\*

In the month of July a party, estimated to consist of fifty persons, crossed over from Palmer, in Michigan, and landed on the Saint Claire river. After "looting" many of the settlers' houses they retired. To such as these the term "brigands" may appropriately be given. About the same time, a militia officer of activity, named Carey, was shot in the night by men who, although not identified, were known to have come from the opposite shore.

An event, also, that caused great sensation was the attempt to destroy the house of sheriff Hamilton at Queenston. A few days afterwards, a captain Usher was assassinated,

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\* He wrote to the colonial secretary on the 10th of September, 1838: "I have felt it to be my duty to submit to the earl of Durham, that the course his lordship has pursued in this matter is, as I am advised, unconstitutional and likely to lead to very painful results; nevertheless, I have transmitted all the papers to Quebec, and address your lordship at present upon the subject only because I am desirous her majesty's government should know how this important question stands, and shall more fully report upon it in a few days, when the papers are returned to me, with the governor-general's decision." [Par. papers, 2, p. 338.]



a crime of which it is asserted the perpetrators boasted at Buffalo.

It was not possible to guard against these acts of brigandage. They can be explained as having had no object beyond that of creating disquiet, and harassing the province by the dread of the recurrence of such outrages. These perpetrators availed themselves of an opportunity when murder and robbery could be committed with impunity, when their victims could be surprised, and little risk was incurred. Their purpose effected, the frontier was immediately crossed by them, and the protection of United States territory sought. It followed that no punishment could be awarded to the aggressors in such cases, for they were shielded from the vengeance which would have pursued them had they been captured in the province, and subjected to the indignant spirit they had awakened.

The report of lord Durham reached Upper Canada in May, and was the cause of much dissatisfaction with the dominant class in the province. Nearly sixty years have elapsed since it was published, and two generations have succeeded, who can judge of its character and appreciate the influence it exercised. The consequence of this passage of time is, that not only the strong feelings which it called forth have passed out of memory, but, except with the student of history, the report is remembered little more than by name. The policy it recommended, however, is too important a political fact to admit that it should ever sink into oblivion. Undoubtedly, it is the most important document that was ever presented relative to British America. It must ever be regarded as the recognised source of the prosperity and progress in wealth and population effected in Canada since the union, and of the peace and happiness which have been enjoyed owing to the political institutions it advocated. At the time of its appearance, the population of Upper and Lower Canada was in the neighborhood of one million. By the census of 1891, at the expiration of half a century, it numbered upwards of three millions, six hundred thou-

sand.\* The population has thus in the half century increased 3.4 times of what it then was. But the greater contrast is the condition of political feeling, and the material condition of the country. Throughout, there is a spirit of loyalty, which binds the dominion to the mother country in a truly imperial spirit. At the time of the appearance of his report, lord Durham could only dwell on the dissatisfaction produced by the causes he described.

The disappointment arising from the depressed condition of the province was clearly stated. "It cannot be a matter of surprise," is the language of the report,† "that in despair of any sufficient remedies being provided by the imperial government, many of the most enterprising colonists of Upper Canada looked to that bordering country in which no great industrial enterprise feels neglect or experiences a check, and that men the most attached to the existing form of government would find some compensation in a change, whereby experience might bid them hope, that every existing obstacle would be speedily removed, and each man's fortune share in the progressive spirit of a flourishing state." This sentence may be taken as the key-note of the report. Its design was to make the province of Canada so prosperous, and so happily constituted, as to be freed hereafter from all prospect of agitation. Lord Durham had pointed out the condition of the province, in a considerable portion of it, as being without roads, post-offices, mills, schools or churches; a condition of backwardness more painfully felt from the striking contrast presented by the state of New York. To sustain this view, he dwelt upon the history of both provinces during the last two years, and it was his narrative in this respect which gave

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\* In 1840 the population of Lower Canada is estimated

to have been ..... 650,000

The census of Upper Canada in that year..... 432,159

Total..... 1,082,159

By the census of 1891 the population of Ontario is..2,114,321

" " Quebec....1,488,535

Total..... 3,602,856

† [p. 68.]

umbrage to those in power. He spoke of the term applied to them as the "family compact," "a name not much more appropriate than party designations usually are, inasmuch as there is in truth very little of family connection among persons thus united." What he enforced was that through the executive appointed by the lieutenant-governor the party wielded all the powers of the government, and maintained its influence by its predominance in the legislative council. It disposed of all the petty posts in the gift of the lieutenant-governor, while the higher offices were filled entirely by the adherents of the executive.

In opposition to this phalanx the reform party made a steady resistance. Its members, however, early discovered that success in the elections secured them but little practical benefit; for the council, not being removable, when its members failed to command a majority in the assembly, continued to exercise all the powers of the executive, while the will of the lieutenant-governor was supreme. The reform party had asked that the council should be responsible to the assembly; a demand which led to the introduction of the words "responsible government." There was, however, no definiteness in the form in which the claim was advanced. No system was proposed by which this amendment to the constitution could be effected. It may be seen that it was lord Durham who first shewed the facility by which the change could be accomplished. It cannot be doubted, the report tells us, that many of the party desired to assimilate the institutions of the province to those of the United States, in preference to those of the mother country. These views were first propounded by settlers from the other side of the line, who were impatient of the restraints imposed by the constitutional practices in Canada. So late as 1836, in the "grievance" report, Mr. Mackenzie recommended an elective legislative council, but his views were greatly influenced by the theories of Mr. Papineau. As, however, there was continual failure in the attempt to attain reform under any conditions, many accepted the view that it was only by extreme radical changes in

the direction of more republican institutions, that their views could prevail.

As lord Durham entered into a full narrative of these events, it cannot with any justice be asserted that he was influenced by foregone conclusions. While he pointed out that the assembly of Lower Canada had acted with singular neglect of the great duties of a legislative body, he called attention to the fact that the statute book of the upper province abounds with useful and well-constructed measures of reform, and presents an honourable contrast to that of the lower province.

Having reviewed the condition of Canada, described by him as the disorder produced by the working of an ill-contrived constitutional system, he pointed out "that it was not necessary to prove, that it was a state of things which should not, and could not continue, that in Lower Canada especially, no delay could be admitted." The existing form of government was but a temporary and forcible subjugation, and "the recent constitution was one of which no party would tolerate the re-establishment. Nor was it less imperative, to adopt extensive and decisive measures for the pacification of Upper Canada." If frustrated, said the report "in their expectations, and kept in hopeless subjection to rulers irresponsible to the people, they, the inhabitants of the province, will at best only await in sullen prudence the contingencies, which may render the preservation of the province dependent on the devoted loyalty of the great mass of the population."

Lord Durham saw clearly that these views were not attributable to discontented national sentiment. He fully recognised that a wise and firm policy on the part of the imperial parliament should prove the foundation of a safe, honourable and enduring connexion. As we regard the condition of the dominion to-day, who will fail to do justice to the spirit of prophecy with which he wrote? He did not shrink from drawing the distinction of the spectacle presented by the two sides of the line. On one side was abundance;

in Canada the scarcity of every sign of material prosperity, and of the civilization testified by schools and churches. His remedy was based on the belief, that as full reliance could be placed on the people of the British North American colonies, so power should not be grudged to them. He proposed, therefore, to concede the responsibility of colonial administration to the people themselves; a change to be rendered permanent. No money should be proposed without the consent of the crown; municipal institutions should be established; and the application of local funds should be entrusted to local management.

His first prepossessions were in favour of a federal union of the whole North American provinces, but this opinion was modified; and the more limited conception of a union between Upper and Lower Canada was entertained by him. In this proposal there was the strongest desire expressed for the protection of all that each province could legitimately claim, so that neither of them would have anything to fear from oppression or injustice. The endowments of the Roman catholic church, and the preservation of the recognised system of law, until altered by an united empire, could be secured to Lower Canada by stipulations similar to those adopted in the union between England and Scotland; so no fear could be felt, that there would be any attempt to tamper with the law, as it existed.

The union would secure to Upper Canada an access to the sea, a voice in the imposition of duties by the Saint Lawrence, and a saving of money would be effected by a joint legislature. The apportionment of the debt to the united province would be no injustice to Lower Canada, for that province was equally interested in the public works for which the debt had been contracted, the improvement of the Saint Lawrence; works which, as the result has proved, have made Montreal the first commercial city of the dominion. There was, likewise, the important point to be considered, the increased weight which the legislature of the united province would obtain with the imperial govern-



ment, and lord Durham had no fears that such a union would weaken the tie to the mother country; on the contrary, that "the practical relief from undue interference\* . . . would strengthen the present bond of feelings and interest."

\* I feel it my duty to copy from this celebrated report the following powerful and eloquent passage : written sixty years ago, it remains as true as on the day it was put to paper. With the distinction, that saving a due and proper regard to imperial considerations, I avoid the words interests, Canada is purely and entirely self-governed. As a consequence, the Dominion feels as strong a sense of national and justifiable pride in the status, character, progress and civilization of its five millions of population, as that entertained by any other people on the continent. The present condition of Canada is an example of the lasting benefits that free institutions can confer. She may be considered as included as an integral part of the empire, beneath that common flag which, still throughout the world, waves with untainted honour. "No large community of free and intelligent men will long feel contented with a political system which places them, because it places their country, in a position of inferiority to their neighbours. The colonist of Great Britain is linked, it is true, to a mighty Empire ; and the glories of its history, the visible signs of its present power, and the civilization of its people, are calculated to raise and gratify his national pride. But he feels also, that his link to that Empire is one of remote dependence ; he catches but passing and inadequate glimpses of its power and prosperity ; he knows that in its government he and his own countrymen have no voice. While his neighbour on the other side of the frontier assumes importance, from the notion that his vote exercises some influence on the councils, and that he himself has some share in the onward progress of a mighty nation, the colonist feels the deadening influence of the narrow and subordinate community to which he belongs. In his own, and in the surrounding colonies, he finds petty objects occupying petty, stationary and divided societies ; and it is only when the chances of an uncertain, and tardy communication bring intelligence of what has passed a month before on the other side of the Atlantic that he is reminded of the Empire with which he is connected. But the influence of the United States surrounds him on every side, and is for ever present. It extends itself as population augments and intercourse increases ; it penetrates every portion of the continent, into which the restless spirit of American speculation impels the settler or the trader ; it is felt in all the transactions of commerce, from the important operations of the monetary system down to the minor details of ordinary traffic ; it stamps on all the habits and opinions of the surrounding countries, the common characteristics of the thoughts, feelings and customs of the American people. Such is necessarily the influence which a great nation exercises on the small communities which surround it. Its thoughts and manners subjugate them, even when nominally independent of its authority. If we wish to prevent the extension of this influence, it can only be done by raising up for the North American colonist some nationality of his own ; by elevating these small and unimportant communities into a society having some

What is peculiar and individual in the recommendations of the report was its perfect practicability. It clearly established the simplicity with which the new order of things suggested could be brought into practice. It avoided the failure that in this respect was characteristic of the demands of the preceding year, which had advocated the establishment of a responsible executive. They had dwelt on the defects of the system under which they were suffering; but they had failed to show the means by which the remedy to these difficulties could be attained. It is in this respect that Lord Durham's report must especially be considered. It not only enunciated the principle by which a liberal system of government would extend peace and prosperity, and call forth a loyal national imperial feeling, but briefly pointed out the manner in which this result, without friction or the slightest political convulsion, could be accomplished.\*

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objects of a national importance; and by thus giving their inhabitants a country which they will be unwilling to see absorbed even into one more powerful."

[Lord Durham's report, pp. 111-112].

\* "It needs no change in the principles of government, no invention of a new constitutional theory, to supply the remedy which would, in my opinion, completely remove the existing political disorders. It needs but to follow out consistently the principles of the British constitution and introduce into the government of these great colonies those wise provisions, by which alone the working of the representative system can in any country be rendered harmonious and efficient. We are not now to consider the policy of establishing representative government in the North American colonies. That has been irrevocably done; and the experiment of depriving the people of their present constitutional power is not to be thought of. To conduct their government harmoniously, in accordance with its established principles, is now the business of its rulers; and I know not how it is possible to secure that harmony in any other way than by administering the government on those principles which have been found perfectly efficacious in Great Britain. I would not impair a single prerogative of the crown; on the contrary, I believe that the interests of the people of these colonies require the protection of prerogatives which have not hitherto been exercised. But the crown must, on the other hand, submit to the necessary consequences of representative institutions; and if it has to carry on the government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence. . . . Every purpose of popular control might be combined with every advantage of vesting the immediate choice of advisers in the crown, were the colonial governor to be instructed to secure the co-operation of the assembly in his policy, by entrusting its admin-

Although the dissemination of this report must have made apparent that the old system was doomed, and that for the future there would be a form of government granted to the province, in which the voice of the assembly would

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istration to such men as could command a majority; and if he were given to understand that he need count on no aid from home in any difference with the assembly, that should not directly involve the relations between the mother country and the colony. . . . The governor, if he wished to retain advisers not possessing the confidence of the existing assembly, might rely on the effect of an appeal to the people, and, if successful, he might be coerced by a refusal of supplies, or his advisers might be terrified by the prospect of impeachment. But there can be no reason for apprehending that either party would enter on a contest when each would find its interest in the maintenance of harmony; and the abuse of the powers which each would constitutionally possess would cease when the struggle for larger powers became unnecessary. Nor can I conceive that it would be found impossible or difficult to conduct a colonial government with precisely that limitation of the respective powers, which has been so long and so easily maintained in Great Britain. . . . Perfectly aware of the value of our colonial possessions, and strongly impressed with the necessity of maintaining our connexion with them, I know not in what respect it can be desirable that we should interfere with their internal legislation in matters which do not affect their relations with the mother country. The matters which so concern us are very few. The constitution of the form of government—the regulation of foreign relations and of trade with the mother country, the other British colonies and foreign nations—and the disposal of the public lands are the only points on which the mother country requires a control. This control is now sufficiently secured by the authority of the imperial legislature; by the protection which the colony derives from us against foreign enemies; by the beneficial terms which our laws secure to its trade; and by its share of the reciprocal benefits which would be conferred by a wise system of colonization. A perfect subordination on the part of the colony on these points is secured by the advantages which it finds in the continuance of its connexion with the empire. It certainly is not strengthened, but greatly weakened, by a vexatious interference on the part of the home government with the enactment of laws for regulating the internal concerns of the colony, or in the selection of the persons entrusted with their execution. The colonists may not always know what laws are best for them, or which of their countrymen are the fittest for conducting their affairs; but at least they have a greater interest in coming to a right judgment on these points, and will take greater pains to do so than those whose welfare is very remotely and slightly affected by the good or bad legislation of these portions of the empire. If the colonists make bad laws and select improper persons to conduct their affairs, they will generally be the only, and always the greatest sufferers; and, like the people of other countries, they must bear the ills which they bring on themselves until they choose to apply the remedy. But it surely cannot be the duty or the interest of Britain to keep a most expensive military possession

possess its legitimate influence, the report was assailed loudly, if not powerfully, by the supporters of the old state of affairs. It even became a social distinction to attack it.\*

The criticism, if it can be so called, of the report was the extreme of feebleness. There was no attempt to meet the statesmanlike arguments which were presented; indeed, it attained no higher stage than impugning in a general way the correctness of many of the statements. Sir George

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of these colonies, in order that a governor or secretary of state may be able to confer colonial appointments on one, rather than another set of persons in the colonies. For this is really the only question at issue." [Report, pages 100-101.]

\* I form this opinion from a work of the day. "Trifles from my portfolio, 1839, by a staff surgeon." Dr. Henry, [Vol. 11, p. 214.] Dr. Henry writes of the report in the language which he was accustomed to hear. The opinions of this writer, remembered by elderly persons as an accomplished and honourable man, are not quoted from the weight to be attached to them; but his remarks are worth preservation as the tone taken in the circles of those who had done so little to advance the interests of the province, and who from self-interest remained opposed to all change. "Lord Durham's report was made the subject of official notice by the legislative council and house of assembly of Upper Canada, in the spring of 1839, and of the lieutenant-governor, sir George Arthur, in a letter to the colonial secretary. The former lieutenant-governor, sir Francis Head, has also animadverted upon it, and numerous vital errors in its assertions as respects that Province have been pointed out. I believe I am authorized to say, that sir John Colborne and the great majority of intelligent and influential people here, even including a member or two of lord Durham's executive council, designate this far-famed report as a most imprudent, unpatriotic, erroneous and inflammatory document, lament its publication; and whilst they believe that some good will result from it, are of opinion that the evil will greatly preponderate.

"It is certain that his lordship has unwittingly furnished the disaffected with a powerful lever to upset so bad a government as he has exposed, however distorted and false may have been the likeness he has drawn. It cannot be very satisfactory to him to find that his elaborate report has been copied and circulated with avidity by the disloyal, in both provinces, and has now become the very manual of treason, lowering the character of the British nation, the British government and colonial government, perverting the weak-minded by its sophistry and seducing the well-affected or filling them with doubt and despondency. It has unquestionably re-animated the drooping courage of the traitorous, and of the exiles in the States, and kindled anew the almost extinct sympathies of their American friends, who have engraved the name of lord Durham on the blades of their bowie knives, in demonstration of their idea and of the certain result of 'Responsible Government.'"



Arthur, especially, wrote on the subject\* as if he felt personally called upon to justify his policy. His despatch furnishes the fullest proof how imperfectly he understood the question on which he wrote and his want of capacity to penetrate the requirements of the government he was present to administer. It is plain that he considered that no constitutional amendments were necessary. He had been informed, he said, that the tenor of the administration of sir Francis Head had been approved, that no change of measures was intended, and that he was told to give his countenance to the constitutional party, who had supported the late lieutenant-governor. He had followed the course of his predecessor, and had endeavoured to prove to the liberal party that the prosecution of their measures was injurious to the community. He had been specially informed by sir Francis Head on leaving the province, "that the loyal people in the colony required at the hands of the government, that such examples would be made as would deter the disloyal from again bringing upon the province a similar calamity." It was this legacy of bloodshedding from his predecessors which led sir George Arthur to be so unbending in the appeal for mercy for Lount and Matthews. Owing to the comments of lord Durham on this unfortunate act of severity, sir George Arthur felt called upon to justify his conduct. He described the two men as having acted jointly in the "murder" of Moodie and Smith, and in burning the houses of Horne and Washburne, and being most anxious to prevail upon their associates to rush into Toronto and set it on fire. This statement is entirely inadmissible. Lount had no direct participation in the death of Moodie. He opposed the burning of Horne's house, and prevented the house of sheriff Jarvis from meeting the same treatment. He was not present at the destruction of Washburne's property; and the latter was not a deliberate act. It cannot be denied that both men were prominently implicated in the rebellion, and deserved punishment; but to argue that there was a design to burn the city was an unwarrantable assertion.

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\* [Par. papers, 289, p. 31. 10th May, 1869.]



Arthur conceived that he made a strong point against lord Durham, when he pointed out, that the statement that the petitions for commutation of the sentence had been signed by 30,000 men was at variance with fact, for they had received only 4,574 signatures. Toronto, it must be remembered, at the time contained only 12,000 souls, and that 17 days only elapsed between the trial and the execution. It was a question to be determined by statesmanship, not by the number of signatures, asking a reprieve. Sir George Arthur seemed incapable of rising to a broad consideration of the requirements of Upper Canada. He conceived that he had disposed of the question of responsible government, when he described it as the scheme advocated by Bidwell, Rolph and Mackenzie, and said that a considerable section of the population were disloyal to the core; "reform is on their lips, but separation is in their hearts." "Responsible government," added Arthur, was Mackenzie's "scheme for getting rid of what Mr. Hume called the baneful domination of the mother country, and never was any scheme better devised to bring about such an end speedily."\* Such was the lieutenant-governor sent to compose the political difficulties of Upper Canada. Fortunately the arrival of lord Sydenham at Toronto in November terminated his influence.

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\* [Despatch 21st August, 1839.]

## CHAPTER VI.

The attack on the district of Johnston, below Prescott, may be adduced as a proof of the extent and activity of the Hunter organisation. It took place on the 11th of November, 1838, simultaneously with the outbreak in Lower Canada. On the 3rd of November, the steamer "Henry Brougham" had been attacked at Beauharnois, and on the following day the insurgents had advanced against Caughnawaga; events which commenced the insurrection of 1838. The affair at Odelltown church took place on the 9th.\* Owing to these affairs, the known sympathy of the Hunter lodges with the rebellion had awakened in Upper Canada an uneasy feeling. On the 5th of November, Arthur issued a proclamation stating that he had directed several militia regiments to be embodied for a period of 18 months, and had authorised the enrolment of other corps for a shorter period. It was not, he said, with the view of rousing patriotism or loyalty that this course had been taken, but from the desire to allay undue apprehension or excessive excitement, attributable to the rumours of invasion then current. He had addressed himself to the officers of the United States army on the frontier, whose honourable profession and personal character were a claim to confidence, to second the efforts of their own government. It was, however, less to the interposition of others than to themselves, that in Canada they had to look for safety.

On Saturday, the 10th of November, the "United States" steamer containing a large body of men, left Oswego, lake Ontario, and descended the Saint Lawrence. As she went down the river she stopped at a small port between Sackett's

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\* [Ante, p. 172.]

harbour and French Creek, and took in tow schooners carrying guns and munitions of war. On the night of the 11th they were off Brockville, and apprehension was felt that a descent upon that town was designed. The vessels, however, continued to Ogdensburg, opposite Prescott, and there cast anchor. Captain Sandon in command at Kingston, on Sunday hearing of the movement, despatched the Cobourg steamer to Sackett's harbour to give the information to colonel Worth of the United States army, then in command there. On the Monday, Sandon in an armed vessel with 200 men, proceeded himself to that place, and had a personal interview with Worth. That officer stated, that similar information had reached him, and that he had accompanied the United States marshal to arrest all the parties who were taking part in the expedition, but he found that they had already sailed in the steamer "United States." Worth immediately followed them. Sandon crossed to Gananoque, where he heard that the invasion had taken place. Without delay, he proceeded to Prescott some 44 miles distant. He there at midnight of Monday the 12th met colonel Young, who informed him that the invaders had landed from the opposite shore, being between 300 and 400 in number with two field-pieces. They were occupying a point of land on which still stands a strongly built stone windmill, in modern times used as a lighthouse. They had thrown up breast-works, and were covered in the rear by three or four stone houses. Colonel Young said his force was not well organised, but if Sandon would co-operate with him from the rear, he would make the attack at day break. Sandon placed at his disposal the marines of the vessel on which he had arrived, and 40 men of the 83rd, who had been put on board of her by colonel Dundas. Before the arrival of Sandon, lieutenant Fowill, on the "Experiment," had on three occasions driven the "United States" steamer back to Ogdensburg while endeavouring to land 400 or 500 additional men at Prescott. He had also prevented from passing to the Canadian shore, a schooner, on board of which were

many of the men engaged to take part in the invasion. It was afterwards stated that many had been killed.

Two columns were formed for attack, in number about 200. The one commanded by colonel Young, having the detachment of the 83rd in front, took a circuitous route; the second, in which were the marines, led by colonel Fraser, followed the road by the river. A sharp fire was kept up from the mill on the troops as they advanced, but no stand was made within the intrenched ground; the invaders were dispersed and fled, but some 40 or 50 retreated to the mill, from the windows of which a hot fire had been kept up. As no attack could be made on the mill without artillery, Young placed his men in a position under shelter, to prevent the escape of those who were holding the building, until the guns expected from Kingston should arrive. In the meantime, several boat-loads of men attempted to cross from Ogdensburg, but Sandon, with three armed schooners, drove them back.

During the action, 1 lieutenant of the 83rd was killed, Mr. Johnson, and a private of marines. The wounded were: 1 lieutenant, 2 corporals, 10 privates of marines, 1 corporal and 2 privates of the 83rd; 5 of the militia were killed, and 27 wounded. The total loss was: 2 officers killed, 3 wounded, rank and file of the regulars; of the militia, 8 were killed and 39 wounded, total 47.

On Wednesday, the 14th, colonel Dundas arrived with four companies of the 83rd, and a demi-brigade of guns, under major McBean. The guns were not placed in position until the 16th, when they opened fire at 400 yards distance. The attack was made in connection with the vessels in the river. A white flag was shortly displayed and the party surrendered unconditionally; 87 prisoners marched out of the mill, and, subsequently, 16 wounded were carried out, the whole amounting to 103. The total number of prisoners taken and placed in confinement was 167. Several succeeded in escaping across the river, having for some time remained concealed in the bush. The loss of the invaders in killed was

never known. It has been variously estimated between 20 and 50. Many of the dead were burned in the buildings during the action. Of the Canadian militia, lieutenant Dalmage, of the 1st regiment, was killed; lieutenant Parslow, of the 2nd Dundas, and ensign McDonnell, of the Highlanders, were wounded.\*

The leader of this expedition was one Von Shoultz, a Pole, a young man of good family, with some education, and possessing property. He must have been led into his dangerous position from sheer vanity, for he could have had no sympathy with the cause he embraced. He was simply a filibusterer, and could not look for any merciful consideration. He was tried at Kingston, and hanged on the 8th of December. He was defended by the late sir John Macdonald, then a young barrister starting in his profession, but it was simply impossible to offer any defence for him. It may be here stated that nine others met the same fate.†

Immediately after the invasion colonel Worth arrived at Ogdensburg. The members of the organisation who had not crossed over, and were preparing to make the attempt, were summarily dealt with by him. His force broke up the parties who had assembled; they were dispersed, and returned whence they came. The United States authorities had communicated to the Canadian authorities the information as received from their spies, but no interference had taken place in the execution of the plans which had been discussed. There was so much gasconading on the part of the filibusterers, that it was scarcely believed that so serious an attempt as the invasion

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\* Report of colonel Foster, deputy adjutant-general, 19th November, 1838. [Par. papers, p. 362], in which the killed and wounded of the rank and file were given as about 45.

† I have only been able to learn the following names of those executed:—Dorephus Abbey, Daniel George, on the 12th; Martin Woodruffe, on the 19th of December; Sylvanus Swete and Joel Peeler on the 22nd of December. On the 4th of January the *Kingston Chronicle* stated that ten had been executed. Of the 136 prisoners brought before the court-martial the whole were sentenced to capital punishment. The extreme sentence was carried out only in the ten cases named. Four were acquitted, two died in hospital, nine were still suffering from their wounds, and four turned queen's evidence.



below Prescott would have been attempted. Those who had been engaged in the expeditions asserted that they expected to be joined by the Canadian population in large numbers. Not a single individual presented himself, and the whole expedition was composed of United States sympathisers. The magnitude of the preparations on this occasion awoke both the federal and state authorities to the necessity of repression; for the event itself had threatened the most serious complications. President Van Buren issued a proclamation, calling upon all citizens to bring to justice the parties who were infringing the neutrality laws, and directed that no countenance should be given to any person engaged in the attempt. They had forfeited all claim to protection. Several arrests were made of men who had prominently identified themselves with the movement. An organisation which had been commenced at Cleveland against the country around Amherstburg was broken up and rendered entirely inoperative, and those implicated were held to account.

One more attempt was, however, to be directed against the province. The Detroit river was the spot chosen. It was the last that took place. On the 4th of December, a force of about 400 men crossed from Detroit to Windsor, under the command of general Bierce, and colonels Putnam and Havell. This body of men marched openly through the streets of Detroit, to take the boat to carry them across the river. A large concourse of people assembled on the wharves, by some estimated at 5,000, but undoubtedly in large numbers, who loudly cheered the filibusters. From time to time these cheers were echoed over to Canada, and they became louder, and more repeated as the flames were seen to rise from the village. The invaders made prisoners of the few militia who were on duty. The house held as their headquarters was attacked, the sentry shot, and the building set on fire. Captain Lewis, from the London district, in command, was killed, and two of the militia were burned to death in the flames. The steamer "Thames," which was lying at the wharf for repairs, was set on fire with some buildings in the neighbourhood.

Meeting a coloured man, they called upon him to join them. On his refusal they shot him. A division then proceeded in their march to Sandwich, 4 miles distant, with the cry, "Remember Prescott! Remember the 'Caroline.'" The militia who had been taken prisoners shortly afterwards effected their escape, and in doing so killed the leader of the filibusters. On the advance to Sandwich, four men were met by the invaders, whom they killed, among them surgeon Hume, of the regular staff. It was explained, that Hume, seeing these men accoutred with cross belts, and carrying muskets, mistook them for Canadian militia, and advanced towards them. He was shot dead, and his body mutilated.

They were encountered by colonel Prince, near Sandwich. He had been aroused by the firing at Windsor. The militia to the number of 170 had been hastily assembled. As they marched towards Windsor they came upon this body of the filibusters. On observing the Canadian militia advancing towards them for attack, the United States column took refuge in an orchard, but they were so vigorously assailed that they were rapidly dispersed; 21 were killed. Four were brought prisoners to colonel Prince. Their fate is described in the curt phraseology in the despatch written by him: "I ordered them to be shot, and it was done accordingly." Subsequently 26 prisoners were taken. These were reserved for the decision of the regular tribunals.

Prince did not attack the main body at Windsor until joined by a detachment of the 34th from Malden barracks under captain Broderick, with a field-piece. The party had been sent forward in waggons. As the news of the defeat of the detachment reached the main body, they found themselves entirely isolated, for not a single Canadian had joined them. They learned the strength of the force advancing against them, and it was plain to them, not only that there was no prospect of success, but that their position was desperate. Those of the invaders who could effect a retreat succeeded in re-crossing the river. They were not received with the invigorating echo of the cheers with which they had

departed from the Michigan shore. Crestfallen they landed, a mob of defeated and cowed individuals. Several who could not reach the boats to cross to the opposite shore took to the woods, and scattered through the country. Numbers of this class were shortly afterwards found in the bush, frozen to death, around the embers of a fire. No trace of food was discovered, and so starvation must have increased the suffering from severe cold and exposure.

Prince's proceeding created great excitement in England. Lord Brougham, who appears always to have had some strange satisfaction in assailing Canada, brought the matter up in the house of lords. An investigation was held, which ended in the admonition of those concerned.

It is customary for some writers to speak of Prince's retaliatory act as done in cold blood. It cannot with justice be so stigmatised. The men were unarmed, it is true, at the mercy of their captors, and such stern treatment is not accorded in war to the soldier, who as a soldier is taken prisoner. The explanation of the order is, that the men were not held to be treated "according to the laws of war." They were regarded as brigands and filibusters. This invasion of the western district was the second that had taken place that year, and it had followed the attempt upon Prescott within twenty days. There was consequently much excitement felt, and the intelligence of the cruelties they had committed had enraged men who had to defend their homes and families. The act never received open justification, but it would be mere cant to say that it was ever a matter of regret. One fact may be positively asserted, that it in no way injured colonel Prince. He was elected to the first union parliament in 1841, and continued during his life to represent his district. Generally, the feeling on the subject was that it would have been well if the act had not happened, but that it was committed under extreme provocation. It must likewise be considered, that it was an exhibition of force and determination, not without its influence in convincing those sympathisers who were inclined to embark in such expeditions, that

it would be wise to think well over their purpose before putting it into execution. Of the prisoners taken, seven were executed at London, four of whom were Canadian refugees; the remainder of the prisoners were from the United States.

On the 6th of February Joshua Guilan Doer was also executed. He had been implicated in Dr. Duncombe's movements, and had headed a party of insurgents from Yarmouth and Bayham to the village of Scotland. A reward had been offered for his apprehension, and he had failed to escape arrest.

Sir George Arthur, on opening the house on the 27th of February, 1839, addressed the members at some length, explaining that the situation of the province was so novel and peculiar, that he felt called upon to exceed the ordinary limits of a speech. He entered into a review of the occurrence of the rebellion, alluding especially to the "Hunter lodges." He described the conspiracy that had been formed; the signal for the invasion of the province, to commence hostilities along the line of frontier, having been the breaking out of the insurrection in Lower Canada. Nevertheless, the operations had been limited to Prescott and to Sandwich. The result had been, the destruction or capture of nearly the whole of the banditti engaged in the raids. One phase of hope had encouraged the attacks, that the mother country would abandon her transatlantic possessions. He was commissioned to give the most positive assurances of the continued protection and support of her majesty, and he was enabled to add that he had only to a limited extent exercised the power vested in him for the suspension of the habeas corpus act. The speech included the general topics alluded to on these occasions.

On the 23rd of March the following resolutions were carried :

1. That the division of Canada into two provinces was an injudicious measure.
2. That an united legislature for the Canadas is indispensable.

3. That agents deputed by the house proceed to England to advocate the union.

On the 27th it was resolved that the house was distinctly opposed to the legislative union, unless the conditions embodied in 14 resolutions be fully carried out.

1. That the seat of government should be in Upper Canada.

2. That the counties of Gaspé, Bonaventure, and Rimouski should be attached to New Brunswick.

3. That the qualification of members should be established by the act of union.

4. That the act of union was not to make void any of the appointments in the legislative council.

5. That 50 members be sent from Upper Canada, as at present. The elective franchise to be confined to those holding their lands in free and common socage, and that it should be urged in the imperial parliament to effect a change of tenure to free and common socage.

6. That a division of counties be made in Lower Canada.

7. That the English language be used in the legislature and in public proceedings.

8. That courts of appeal and impeachment be established.

9. That the revenue of the post office be placed under the control of the government.

10. That until specially provided, the courts and laws were to remain unchanged.

11. That the debts of both provinces should be chargeable to revenue.

12. That the lower legislatures should have power to originate duties and to reduce them.

13. With the above exceptions the principles of the constitution, 31 George III. should remain inviolate.

14. That Messrs. MacNab and Merritt be the two commissioners sent to England.

The house likewise appointed a committee to report on the state of the province. It consisted of members who entertained the most pronounced opinions in favour of the existing political institutions of the country. It entered



into a review of lord Durham's government in a most unfriendly and petty spirit, entirely differing from the appreciative tone taken by the British in Lower Canada, and from their full justification of the measures he had introduced. Throughout, the attempt to vindicate the government of sir Francis Head was apparent, with the determination to throw doubt on the assertions contained in the report. It was an attempted exculpation of the administration of the government as it had been hitherto conducted. There was no attempt to estimate the broad statesmanlike views which lord Durham had propounded. It concluded by examining the two points of most importance, the legislative union of the two provinces, and the responsibility to the legislature of the officers of the government.\*

The first had under certain specified conditions been assented to; the second was pronounced inconsistent with the dependence of these provinces, as colonies, upon the mother country. This really was the sum of all that was advanced against the broad, far-seeing views that had been advanced so ably and concisely by lord Durham. The committee hoped, that the recommendations would not be adopted without the most full and ample information, and with no undue haste. At the same time it expressed its conviction that some great change was about to take place. The draft of an address to the queen was voted, in which it was stated that the high commissioner had urged the adoption of changes, without waiting for the opinion that might be formed of them by the people.

The parliament was prorogued on the 11th of May, 1839.

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\* The following extract is given from a Buffalo paper in the report in question, p. 133: "It is our deliberate conviction that it is every good man's duty to do all in his power to sweep this murderous tyranny (the British government) from the western world. To accomplish this, almost any measures are justifiable.

"We have no patience with these bloody wretches, and much as we abhor assassination, we would almost justify it in freeing the world from such monsters.

"Where are those Canadians who swore to avenge the death of every patriot

It was the last session under the administration of sir George Arthur.

On the 9th of June, at a public meeting of the inhabitants of Sandwich, several resolutions were passed, in which the events of the year were recapitulated. Complaint was made that the service rendered by them had been passed over in comparative silence, "a proof of the singular indifference with which this important frontier has hitherto been, and still continues to be, treated." These strongly worded resolutions complained of the prisoners taken being held as prisoners of war, and called for their severe punishment. A petition was sent to sir George Arthur, complaining that Amherstburg was left destitute of regular forces. Sir George Arthur answered that the inhabitants would find that they would have no cause of complaint, and that he had directed the continuance of the embodied militia until the end of July. The report of the attorney-general was enclosed, in which he stated that the prisoners "might have been put to death by their captors at the moment they were taken as outlaws," but the flagrantly guilty had been reserved for such punishment as in the discretion of the sovereign may be inflicted on them.\*

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prisoner? MacNab and Drew and Arthur and Prince and Hagerman are still alive."

Placards even appeared at Detroit, offering \$800 for the dead body of colonel Prince; \$1,000 if he were taken alive.

\* [Par. papers. No. 2 Affairs of Canada, pp. 309-313.]

## CHAPTER VII.

The preceding chapter suggests the difference of circumstance, and, to some extent, of sentiment relative to the union of the provinces, which prevailed in Upper and Lower Canada. In the lower province, great interest regarding it was felt by the British population. It was recognised to be the only measure which would extend to them the influence they could justly claim, and would prove to be the first step in the settlement of the political chaos which could by no government be permitted to continue. The suspension of the constitution, although believed to be unavoidable in the distracted state of French Canadian opinion, was not by any means held to be commendable. There was the general desire entertained that its continuance should be limited to the shortest possible duration; and, it was felt that by its provisions the government possessed an extent of power, in no way controlled by the restraints by which liberty is safeguarded. There was an earnest desire to return to the more settled, orderly executive control, which would admit the influence of public criticism, and furnish assurance against arbitrary legislation. Except for the outbreak, which had subjected the province to the extreme measure of the suspension of the constitution, the popular vote for any effective constitutional change could never have been carried in the affirmative. All the influence of the Papineau faction had been directed in favour of a French Canadian *nationalité*. The assurances of the British government, that the religion, laws, and customs of the province would be scrupulously protected from undue interference, remained without weight, and the union was pronounced to be an extreme measure, which would perpetuate the suspension of the constitution, so far as the French Canadians were affected.

In view of the end which Mr. Papineau proposed, no greater mistake could have been committed than the violent proceedings which ended in the outbreak. Setting out of consideration the absence of all organisation, and the utter deficiency of every requirement to assure success; reviewed only in its political aspect, no step could have been more objectionable; for it relinquished the vantage ground possessed by the constitutional majority of the house of assembly which, in itself, would have rendered it difficult to assail the French Canadian party as such, with coercive legislation. Their abandonment of this position for the assumption of armed hostility in the field destroyed the claim to consideration that they might have advanced. They became the aggressors. They broke the law by which they could have exacted protection; they abandoned the ægis which would have gone far to preserve them from an exercise of extreme power. They thus placed themselves at the mercy of an active policy, against which, when the crisis came they were unable in any way to contend. They themselves passed the line within which they should have remained; creating for the executive the right to act in the opposite direction to the extent it might deem expedient. Thus the outbreak admitted the suspension of the constitution. Otherwise, with the condition of feeling that existed, it would have been impossible to obtain the consent of the lower province to the union. It was the special council to which authority had been transferred that gave it legality.

Although much diversity of sentiment divided the population of Lower Canada, nevertheless the belief prevailed, that there was no line of policy but the union which would confer quietness and restore prosperity, and consequently all agitation had ceased regarding it. What opposition was entertained came from the city of Quebec, as the local centre of the province and its ancient capital; for it was plainly understood that the extreme eastern site of the city would render its selection as the future capital

an impossibility. Accordingly, it was feared much of its prestige would pass away. This feeling, which was never wholly quieted, proved to be inoperative in the settlement of the question. At this date even, rivalry had arisen between the two cities, for Montreal had commenced its advance towards the commercial supremacy it has subsequently attained. Its geographical position as head of the ocean navigation secures for it an advantage which no circumstances can imperil. Quebec, as the seat of government of the lower province, could only regard the transfer of the capital as an irreparable loss, and this sentiment came to the surface to militate against the proposed union. The extraordinary advance in the prosperity of Montreal during the last quarter of a century, as an accepted fact, has led to the extinction of this sentiment; but it did not die away with the enactment of the union. For some years the unceasing advancement of the more western city was not favourably viewed. It was said that everything was passing from Quebec, but two of the characteristic advantages it offered which defied destruction; the tide and the citadel, which would always remain. It is not difficult to understand that in some quarters this sense of the loss of local advantages should have usurped the possession of feeling, which would have been more wisely inspired by patriotic sentiment.

In Upper Canada every effort had been made by the dominant party to turn public opinion against the union. One of the modes adopted was to suggest impossible conditions on which it should be effected; as may be seen in the resolutions voted in the house of assembly. The officials in power plainly understood that the measure would be a death blow to their supremacy, and their followers were incited to express their discontent, unless all that they demanded as safeguards to their position should be accorded. Since the publication of the Durham report, the term "responsible government" had come much into discussion. The ideas expressed regarding it were on one side vague



and undefined, on the other, extravagant and impracticable. The lieutenant-governor, sir George Arthur, expressed the most extraordinary views on the subject, while the executive council, clinging to the old regime, regarded it as little short of revolutionary. The loyalist population that had been prominent on the side of the government in the late outbreak, demanded the disfranchisement of all who had been active in the cause of reform, whom they conveniently classed as disloyal; and in many cases, as rebels at heart. It was plain that great skill would be required in quieting these passions, and in inducing the community to receive the boon offered by the British parliament. There was every requirement for Upper Canada to sustain legislation which would relieve the province from its embarrassments. The province was on the verge of bankruptcy. The annual revenue was £78,000, the interest on the debt £65,000; the expenses of the government, £55,000; so there was an annual deficiency of £42,000. Hitherto the interest of the debt had been paid by incurring fresh loans, and any appropriation for public works was an impossibility. Although the Welland canal was completed, it had been so inefficiently constructed that it was constantly calling for expensive works. The Cornwall canal had been commenced, but the work had been abandoned from want of funds. There were no means of obtaining an increase of revenue, for the sea-ports were under the control of Lower Canada, and direct taxation, with the scattered population was impossible. The finances were in a complete state of derangement. Property was falling in value, and, as lord Sydenham wrote, "Emigration was going on fast *from* the province." There was a general feeling of uneasiness and distrust. Political life was divided into half a dozen cliques. If there was one predominant sentiment, it was antagonism to the party in power and its supporters, dissatisfaction with its arrogance and a sense of the high hand with which they repressed all liberal tendencies. There was a strong sense of the necessity for change, and the opinion was general that matters could not go on as they

were. Nevertheless, the opposition to the sentiment entertained rendered it the less possible to obtain accord in the remedy which would generally be accepted.

Such was the condition of affairs when Mr. Poulett Thomson arrived in Canada in the early part of 1839. He had been a leading member of the cabinet of lord Melbourne, having occupied the position of president of the Board of Trade.

He was the son of the leading partner in the wealthy firm of Thomson, Bonar & Co., for several generations engaged in the Russian trade, with establishments in London and Saint Petersburg.\* He was born in 1799, and, under the auspices of his family, entered upon a mercantile career at Saint Petersburg. Suffering from ill-health in 1817, he left northern Russia and travelled for some months in southern Europe. Eventually on his return to London he engaged in business with his elder brother. Lord Sydenham was an accomplished linguist. From this fact, for he was acquainted with the principal European languages, also because he was of a studious nature and had been carefully trained, an attempt was made to obtain his admission into the diplomatic service. Not succeeding in this expectation, he established himself as a merchant in London; a career which he advantageously followed. His studies, however, were never neglected, and he was especially devoted to political economy. In 1826, from the desire to be returned to parliament, he presented himself as a candidate at Dover. He was elected, it is said, at the cost to himself of £3,000. His first speech in May, 1827, obtained the commendation of Huskisson. He rapidly made his way

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\* Mr. Poulett Thomson was not raised to the peerage under the title of lord Sydenham until August, 1840, and as in Canadian history mention is made of him only as lord Sydenham, he is so called in these pages from the earliest stage of his government. Mr. Greville in his diary describes him as being desirous of taking the title of lord Saint Lawrence. The suggestion did not meet the approval of lord Melbourne, then prime minister, who remarked, "I don't think you have done enough for that. Eh! Scipio Africanus, eh?" In spite of this *bon mot*, the services of lord Sydenham to Canada were of so high a character that I do not conceive posterity will give their approval to lord Melbourne's sarcastic and not too kindly criticism.

in the house of commons, and was regarded as a prominent member of the liberal party; a destination that brought him in opposition to the administration of the duke of Wellington. He is credited with having, with three others, in May, 1832, published a placard on which were the words, "To stop the duke, go for gold," which caused a run on the bank of England. He had been a member of the ministries of lord Grey and lord Melbourne, first as vice-president, secondly as president of the Board of Trade. He did not, however, become a member of the cabinet until 1834. In the early part of 1839 he was subjected to much physical inconvenience from the late sittings of the house, and was led to consider the necessity of a change in his position, which would admit of his continuance in public life, without this extreme tax upon his strength. On the remodelment of the government in May, after sir Robert Peel's failure to form a ministry, had lord Sydenham's health so permitted, he would have been chancellor of the exchequer; but, on his expressing the desire for a less exacting position, his friends considered that the post of governor-general of Canada, which had to be filled, would be one that he could accept. In his private journal he recorded "that a friend had pointed out to him that he thought Canada the finest field for exertion for anyone, affording the greatest power of doing the greatest good to one's fellow-creatures." He therefore determined on the acceptance of that office; particularly as it was understood that lord John Russell was to fill the position of colonial secretary.

The treatment that lord Durham had received could not have failed to suggest to Sydenham the difficulties with which he had to contend. The publication of the report had made him cognisant of the task that lay before him. With lord Durham himself he was on terms of friendship, and equally so with Mr. Buller, who both gave him the benefit of their experience and information, concerning the policy they advocated. Probably no man in public life was better adapted for the position he was assuming. He had great perception of character, and his

natural sagacity and tact had been perfected by twelve years' experience in the house of commons. He knew well the intricacies of political life; and that not simply judgment and adroitness were indispensable to overcome them, but firmness of purpose and force of will would have to be carefully exercised. His manners were most courteous, and there was a personal fascination in his intercourse which few could resist. He had great energy of character, and to his habits of business added the power of much application. He knew also thoroughly the object that he had before him. His effort was to effect a settlement, that would assure the happiness and prosperity of the province. There was no theory of retaining undue imperial power, or of continuing the province in subserviency to the mother country. The desire was to establish a form of government by which the resources of the country could be developed, and the wealth and well-being of its inhabitants increased, so that Canada would really become an addition of strength and support to the British empire, and not the source of discord and of weakness. He adopted these views with all the earnestness of his nature, and on his appearance in the province, all the strong points of his character were called forth to obtain immediate recognition.

Before his departure, lord Sydenham was specially received by the queen, who graciously assured him of her faith in his success, and her desire that on his return he should re-enter her service. He left by the "Pique" frigate on the 13th of September, his 40th birthday. A party of his friends and connections accompanied him in lord Durham's yacht for some distance. It was afterwards recollected that his health was not satisfactory. He had lately suffered from gout, and there was a pained expression in his face which suggested that it might be the last time his friends would look upon him. The voyage was stormy and occupied thirty-three days. He landed at Quebec on the 19th of October. He was cordially welcomed by sir John Colborne and the official world. He was gratified on his arrival by meeting extreme

friendliness of feeling, and hearing sanguine hopes expressed of his mission. The merchants of Quebec especially felt gratified, that one like themselves, a merchant acquainted with the business requirements of the province, had been appointed to the high office of governor-general; and in their addresses to him they dwelt both upon this fact and on his high public character, as good grounds for belief that he would be able to accomplish satisfactorily the duties entrusted to him. He held a levee shortly afterwards which was most numerously attended, and, after remaining a few days in Quebec, he proceeded to Montreal, leaving Quebec on the 22nd of October.

Lord Sydenham found the special council established at Montreal, and he considered it inadvisable to make any change in its constitution, or to add a single member to it. His reasons for so acting were, that he held it indispensable to avoid the imputation of having selected members whose opinions coincided with his own. Moreover, he considered that the council constituted by sir John Colborne fairly represented the state of feeling in the province.

The council was summoned to meet on the 11th of November, when lord Sydenham by message submitted the views of the home government regarding the legislative union of the provinces. He explained the strong desire he personally felt to terminate the suspension of the constitution; to aid in the development of the resources of the country; and to assure the general happiness of the community. In effecting the union, mutual concessions and mutual sacrifices would be indispensable; but he entertained no doubt, that the measure would be considered by the imperial parliament with justice to both provinces, and their common advantage. On the 13th of the month, six resolutions were introduced.

1. The union was affirmed to be an indispensable and urgent necessity.

2. That the determination to re-unite the provinces received ready acquiescence.



3. That a suitable civil list should be provided, securing the independence of the judges, and maintaining the executive in its functions.

4. That the portion of the debt of Upper Canada contracted for the improvement of internal communications should be chargeable to the revenue of both provinces; the outlay for defraying expenses of a local character not to be included.

5. That the adjustment and settlement of the terms of the union should be submitted to the wisdom and justice of the imperial parliament.

6. That a permanent legislature, composed of the people of the two provinces, should be convened as soon as practicable. The resolutions were carried with three dissentients, Messrs. Cuthbert, Neilson and Quesnel.\*

An address was carried to the governor-general with two dissentient voices, in which gratitude was expressed to the queen "for having granted her high sanction to a measure which, from our local knowledge and the experience we have had of the government of these provinces, and of their past and present political state, we deem to be essential to their future peace and welfare, and for the good, constitutional, and efficient government of them under the protecting care and authority of her majesty; and the adoption of which we are intimately convinced has become of indispensable and urgent necessity."

Some ordinances were passed :

1. Continuing, until June, 1840, the power to detain arms and gunpowder.

2. Continuing the ordinance relative to persons charged with high treason.

3. Incorporating the ecclesiastics of Montreal in the fief and seigniories of Saint Sulpice, and of the Two Mountains.

The proceedings of the council of Lower Canada having

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\* The members of the council supporting the union were : the chief-justice (Stuart), Pothier, de Léry, Moffatt, McGill, de Rocheblave, Gerrard, Christie, Walker, Molson, Harwood, and Hale, of Sherbrooke.

been thus terminated, on the 18th of November Sydenham addressed lord John Russell urging the speedy adoption of the measure by parliament and pointing out that whatever differences of opinion might exist, the large majority were warmly in favour of the union.\* Having appointed the officer commanding to assume the government of Lower Canada, lord Sydenham left for Toronto, where he arrived on the 21st of November. The following day he was sworn in for the province, and assumed its government, thus superseding the authority of the lieutenant-governor, sir George Arthur. He received an address from the city council, which forcibly suggested the difficulties he would have to overcome, in determining the principle upon which the union would be acceptable. After congratulating him on his arrival, the address proceeded to say, that any union not predicated "upon the ascendancy of the loyal part of the inhabitants, or which shall give to that portion of the population who, from education, habits and prejudices are aliens to our nation and institutions," or to that part engaged in the late rebellion, the same rights and privileges as would be granted to the loyal

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\* "All parties look with extreme dissatisfaction at the present state of the government. Those of British origin, attached by feeling and education to a constitutional form of government, although they acquiesced at the time in the establishment of arbitrary power, as a refuge from a yet worse despotism, submit with impatience to its continuance, and regret the loss, through no fault of their own, of what they consider as their birthright. Those of the French Canadians who remained loyal to their sovereign and true to the British connection, share the same feelings; whilst among those who are less well affected or more easily deceived, the suspension of all constitutional rights affords to reckless and unprincipled agitators a constant topic of excitement.

"All parties, therefore, without exception, demand a change. On the nature of that change there undoubtedly exists some difference of opinion.

"The large majority, however, of those whose opinions I have had the opportunity of learning, both of the British and French origin, and of those, too, whose character and station entitle them to the greatest authority, advocate warmly the establishment of the union, and that upon terms of perfect fairness, not merely to the two provinces, but to the two races within these provinces. Of the extent to which this feeling with regard to the upper province is carried, your lordship will find a most conclusive proof in the resolution of the special council respecting the debt of Upper Canada." [Sydenham to lord John Russell, Montreal, 18th November, 1839.]

population, would be fatal to the connexion of the provinces with the parent country.

Lord Sydenham replied with the judgment which distinguished him. He gave his thanks for the personal congratulations addressed to him, and expressed the hope that the information he would acquire would enable him to suggest such measures as would promote the agricultural and commercial interests of the province. The re-union of the provinces he declared in all respects to be most essential, and that it must be founded on the principles of equal justice to all her majesty's subjects.

The state of public feeling was soon gauged by lord Sydenham. He was not long in forming the conviction that a majority in the assembly in support of the measure could be counted upon. The legislative council, composed of the oligarchy so long powerful in the province, saw in its consummation what to them was the nightmare of responsible government, which presaged the transfer from their hands of the influence and patronage they had so long possessed, and so arbitrarily exercised.

The legislature was opened on the 3rd of December by lord Sydenham. He assured the two houses of her majesty's determination to maintain the imperial connection. He had no ground to fear future aggressions on the frontier, which affixed an indelible disgrace on their authors; but if unforeseen circumstances should arise, they possessed with the protection of the parent state ample means for defence. It would be his duty to submit to them the subject of the re-union of the provinces, in full confidence that it would receive deliberate consideration. He alluded to the commission appointed to investigate the mode in which the duties of the several departments were performed. He dwelt on the establishment by the imperial government of steam communication with British North America. He enforced the necessity of maintaining the public credit. He congratulated the country that the banks had resumed specie payments. He again submitted the offer of the surrender of the

casual and territorial revenues in exchange for a civil list, and he appealed to the wisdom, the loyalty, and good sense of the province to co-operate in a measure to restore to the country peace and prosperity.

Two days after the opening of the session, an important despatch from lord John Russell appeared in the *Upper Canada Gazette*; a similar despatch had been communicated to the lieutenant-governors of Nova Scotia and New Brunswick. It dealt with the tenure of office; setting forth that such positions were not to be considered for life; but that the incumbents of such offices will be called upon to retire from the public service as often as any sufficient motive of public policy suggests the expediency "that a change in the person of the governor will be considered a sufficient reason for change in the personality he may see fit to make." The publication of this despatch was opportune in the sense that the members of the executive council could understand, that they would be held to support the policy of the governor-general, and that if they failed to give this support, parties would be found who would do so. Some of the executive council were looked upon as unfavourable to the union, and were named as likely to oppose the measure; but they must have felt the impossibility of any such proceeding, in the face of the declaration of the imperial despatch.

On the seventh of December, lord Sydenham sent a message to the council and assembly, bringing to their consideration the subject of the union of the provinces. He briefly alluded to the past history of the country, and to the suspension of the constitution in Lower Canada. He thus described the upper province: "the finances are deranged, public improvements are suspended, private enterprise is checked, the tide of emigration, so essential to the prosperity of the country and to the British connection, has ceased to flow; while by many, the general system of government is declared to be unsatisfactory."

Her majesty's advisers considered that by the re-union of the provinces alone, these difficulties could be removed.

The delay in effecting the measure had not arisen from doubts as to its expediency, but in order to ascertain the opinions entertained in the province, and to gather full information. The time had arrived when the return to constitutional government in Lower Canada could no longer be postponed. The union was necessary to enable Upper Canada to meet her financial embarrassments, and to proceed in the development of her natural resources. The province had engaged in works which reflected the highest honour on the inhabitants. Additional means were required for their completion, and Lower Canada held the key of these movements. Without her co-operation the navigation of the Saint Lawrence must remain incomplete. To remedy all existing defects the union was proposed, based upon righteous principles, with a just regard to the classes of either province, maintaining the three estates of the legislature, the settlement of a permanent civil list, and the establishment of a system of local government. The house of assembly had pronounced their decided judgment regarding the measure during the past year. He now invited their assent to the terms on which it was proposed to be effected.

The first stipulation was equal representation of each province. With regard to population, the upper might seem in a less favourable position than the lower province; but in view of the increasing population expected from immigration, and the commercial and agricultural enterprise of its inhabitants, equality of representation was desirable.

The second stipulation was the grant of a sufficient civil list.

Thirdly, the governor-general was prepared to recommend to parliament that the debt of Upper Canada for public works of a general nature should, after the union, be charged to the joint revenue of the province.

Five resolutions embodying these principles were carried in the legislative council, by the vote of 14 to 8. They thoroughly set forth the principles laid down in the message.

In the assembly an address was voted, asking if his excel-



lency were in possession of any information that he could communicate to the house, relative to the measure to be proposed in the imperial parliament. In reply, lord Sydenham sent down a copy of the bill that during the last session had been introduced in the house of commons and withdrawn ; with the understanding, that the bill could not be considered as embodying the propositions hereafter to be adopted. He was prepared to recommend that in the new measure the existing territorial division in Upper Canada for electoral purposes should be adhered to, and that the principle of the constitutional act of 1791 should be maintained. Any recommendations offered by the house would be submitted by him for the consideration of the imperial parliament.

Four resolutions were carried.

1. Affirming the union to be indispensable, by a vote of 47 to 6.

2. That the representation of each province should be equal. Yeas 33, nays 20.

3. That a sufficient civil list should be granted. Yeas 43, nays 8.

4. That the public debt of the province should be charged to the whole province. Unanimous.

During the debate, Mr. Sherwood moved in amendment that the members returned for Lower Canada should be 50, and that the number for Upper Canada should be the same as that of the actual provincial legislature.

The attorney-general, Mr. Hagerman, opposed the motion. In his remarks he said that he was aware that it had been reported that as the project of union was a government measure, any official who had opposed it, and would at that time continue his opposition, would be dismissed. He had communicated with the governor-general, and had expressed to him the opinions he entertained, and his remarks had been met with perfect frankness on the part of his excellency. The system of government that the governor-general had stated it was his determination to carry out was to his mind in the highest degree satisfactory, and was

deserving of the confidence of the province. He remained still opposed to the union, and was prepared to vote against it; but it was not to be evaded by unjust or unreasonable demands. It was not possible to meet the measure as it was brought in, other than by a plain, straightforward and intelligent course of action. The question must be met by a direct affirmative or negative. The conditions which had been proposed last year were inadmissible, and amounted to a virtual rejection of the measure, and had been so regarded by several members who accordingly had voted for them. The propositions contained in the message of the governor-general were fair and reasonable, and he was prepared to vote for them; adding stipulations, as to the site of the seat of government, the language to be used in the legislature, and the continuance of the constitution as it then existed. Mr. Cartwright, in a resolution of some length, proposed that the seat of government should be in the upper province, that English alone should be the language of the legislature, and that there should be a real property qualification for members of the house. Further, that the principle of 1791 should be preserved inviolate. The motion was lost by the vote of 21 to 29.

The measure was received without any specification of the condition that the seat of government should be in Upper Canada. It was, however, understood, that the governor-general had engaged so far as his influence should prevail, that it should be within the limits of Upper Canada. Indeed, the first three parliaments of the united provinces were held at Kingston. A change was subsequently made to Montreal, and parliament was held there till 1849, when owing to the excitement of the "rebellion losses" bill, the riots of the 25th of April of that year took place. The consequence was the system of a perambulating change of location, four years being held in Toronto, and four years in Quebec. This system lasted for fifteen years, the last session being held at Quebec on the 19th of January, 1865. On the 8th of June, 1866, the first session was held at

Ottawa, which has been established as the permanent seat of government.

Early in the session, an address was sent to the governor-general, asking him, if any communication had been received on the subject of responsible government as recommended in the report of lord Durham. Lord Sydenham regretted that it was not in his power to communicate such despatches. The commands he had received from her majesty were to administer the government in accordance with the well understood interest and wishes of the people, as expressed through their representatives, and to pay the deference to their feelings justly due to them.

Among the measures submitted to the house was one for the settlement of the clergy reserves. The church of England had hitherto opposed all compromise on the subject, acting upon the theory that the appropriation had been made for the benefit of that church alone. The presbyterians had applied the argument of establishment to themselves ; they claimed to be equally affected by it, as representing the northern part of great Britain. Had Dr. Strachan submitted to a compromise at an earlier date, the matter could have been harmoniously settled, but he was unwilling to lessen the grant by any concession. Since November of the preceding year, 1839, he had been bishop of Toronto, and from that time he appeared to have been more firm in the advancement of his pretensions. The presbyterians, however, had obtained the recognition of their rights by the imperial parliament, but other denominations had received no countenance. There was only one principle on which any accord could be obtained, that the proceeds of the land should be applied to general education, or to the construction of important public works. Much bitterness was felt on the subject, which seemed to grow in intensity ; and it was a feeling with many that any settlement was advisable which would terminate the agitation. It was this sentiment which had led to the negative arrangement named. It had succeeded in passing the assembly, but from

the peculiar constitution of the legislative council it had always failed there.

Judging by lord Sydenham's private letters, he was personally in favour, and indeed advocated, that education should be based on religious teaching. On the other hand, it may be said that had there been a predominant feeling for secularising the reserves, he would have acceded to the general wish. There was, however, so much diversity of opinion that there was no hope of effecting an arrangement on this basis. Accordingly, he felt that it was infinitely desirable a settlement should be obtained, and necessarily upon conditions acceptable to the imperial parliament. With the aim of definitely attaining a principle which would be agreeable to the majority, he placed himself in communication with the men of influence of the various denominations, with the desire of attaining some compromise by which this result could be obtained. After the bestowal of much time on the effort, he succeeded in effecting an arrangement and secured an agreement for the distribution of the reserves among the religious communities recognised by law. A bill embodying this principle was introduced in both houses and carried. Consent was reserved until it could be submitted to the expression of approval of the home government. When it came before the house of lords, it was subjected to the opinion of the judges, who decided that its provisions exceeded the legislative authority of the provincial assembly. Consequently, upon this view a bill was introduced in the imperial house of commons, and obtained the royal sanction. Although it did not permanently settle the question, it was the first step in that direction. The last assembly of Upper Canada was brought to a close on the 10th of February, 1840, when lord Sydenham prepared to return to Montreal to complete such legislation in the special council as was called for.

He started on the 18th, in a covered sleigh. The distance is 360 miles, but by carefully arranged relays of horses the journey was made in 36 hours.

Previous to leaving Montreal in November, 1839, in view of

the possibility of future trouble, the habeas corpus act had been suspended until the spring of 1840. It was not renewed, as there was no sign of political agitation.

The special council was summoned to meet, and many ordinances were passed. The incorporation of the seminary of Saint Sulpice was definitely determined. It was a measure not consummated without opposition. The extreme British party did not look upon it with favour, and an effort in the house of lords, caused by the action of the bishop of Exeter, Phillpotts, was directed against the ordinance. An attempt was made to obtain an address to the crown against the settlement, but it failed.

Owing to the outbreak, the corporations of Quebec and Montreal, which had fallen into disuse, were revived by ordinance.

The session of the special council continued to the end of June. Lord Sydenham took advantage of a few days of leisure to descend by steamboat to Sorel, when he sailed up the Richelieu river, landing at the spots which attracted his attention. He passed across to Saint John's, horses being taken on the boat, so that they were at his disposal when required. He visited Chambly and returned by the way of the railway to Laprairie. He described his trip as "three days' air and exercise."

He shortly afterwards left Montreal for Quebec, and sailed for Nova Scotia. He arrived at Halifax on the 9th of July and entered into the political difficulties by which that province was affected. He paid a short visit to New Brunswick, staying three days with sir John Harvey. On his return to Canada, he passed through the eastern townships. He was much struck with the beauty of the landscape, and the luxuriance of the forest of hardwood; but he saw the difficulty which then affected the district, the want of water communication, and the difficulty of carrying their produce to market, for the day of its railways was not even surmised. He did not remain long in Montreal, but at once started on a visit to Upper Canada to the west of Toronto, for his trip



hitherto had been bounded by the Falls. He passed by Hamilton and Niagara to lake Erie, and returned by the way of Toronto and the Rideau navigation. He was welcomed everywhere with great distinction, and even at Toronto was presented with a complimentary address approving of his policy in carrying the union act. On his return, he received the intelligence that he had been raised by the queen to the peerage as baron Sydenham, of Sydenham in Kent, and of Toronto in Canada.

At the close of the session in Toronto, in 1840, in the hope of favourably impressing the community with the honesty of his declaration in favour of responsible government, owing to Mr. Robert Baldwin's high character in the community, and the confidence generally reposed in him, lord Sydenham offered to him the position of solicitor-general for Upper Canada. He was not, however, included in the executive council. Subsequently, in the month of February, 1841, Baldwin resigned the appointment, and it may be well here, although somewhat anticipating events, to refer to the circumstances which led to this proceeding; for Baldwin himself has not been held perfectly blameless in the mode he followed in offering his resignation, although no one for a moment doubts that he acted otherwise than from high principle.

As he himself stated, in accepting the position he had been guided by his confidence in lord Sydenham; nevertheless, he felt that the step was one which might not be perfectly well understood. In February, 1840, he published a letter\* stating that he had accepted office under the belief that the principles of responsible government were to be carried out in accordance with those he had advocated; and that he had not entered into any compromise with the attorney-general, then Mr. Draper.

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\* The following is the text of the letter, in which he declares this principle :  
“ In accepting office I consider myself to have given a public pledge that I have reasonably well-grounded confidence that the government of my country is to be carried on in accordance with the principles of responsible government which I

It was not until the following year that his resignation took place. Scarcely a public man of that day seems to have formed a just conception of the difficulties under which lord Sydenham acted. He understood thoroughly that after the violent passions which had agitated Canada for several years, the dominant difficulty was to obtain any sacrifice of personal feeling: a sentiment which still animated the province under a multiplicity of forms. What in his mind was most essential was a spirit of compromise. It was scarcely possible, he felt, that the past could be erased from memory as if it had never existed. But there was ground for expectation that men would be led by the sense of its necessity, and as the only means of extrication from anarchy, to exercise the spirit of forbearance. He was conspicuous himself in showing the forgetfulness of all past causes of offence, and none knew better than he, that the success of the future depended on the exercise of this spirit. The general body of men acted as if they believed that there was danger still to be guarded against. It was this spirit which dictated the conditions enforced by the legislation of the Upper Canadian house, and may explain the resolute opposition in the lower province by a large number of French Canadians to the union. The result was that every section which represented public opinion looked for the full accomplishment of its views, as Johnson expressed it in a celebrated passage, "they pursued with eagerness the phantoms of hope," that their theories could be brought to pass. Mr. Baldwin was not free from this feeling, and was actuated by it to resign his position at a time when it caused great embarrassment.

On the 13th of February, 1841, a year after Mr. Baldwin's appointment, lord Sydenham named his executive council, and, in doing so, he wrote to Mr. Baldwin, that having been

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have ever held. It is therefore right that it should be distinctly understood that I have not come into office by means of any coalition with the attorney-general, or with any others now in the public service, but have done so under the governor-general, and expressly from my confidence in him."

called upon without delay to nominate to the position the chief officers of the government, he had included Baldwin's name in the list. For Upper Canada, the members were Sullivan, Dunn, Draper, Harrison and Baldwin; for Lower Canada, Ogden, Daly and Day. It was objected to at the time that no French Canadians were included, and only one Roman catholic, Mr. Daly. The Upper Canadian members were generally those whom Baldwin had constantly opposed. On the 19th of the month, he informed lord Sydenham that he had no confidence in any of the number except Dunn, Harrison and Daly; and to place himself right with the other four members, he wrote to each one of them stating in plain language his want of political confidence in them. Mr. Baldwin had further expressed an opinion to the governor-general, that he did not believe an administration so formed would command the support of parliament.

On the assembly of parliament at Kingston, on the 13th of June, 1841, there was a meeting of the liberal members of both sections of the province. It was then plain, that there was no confidence in the administration on the part of those present. Baldwin, accordingly, waited on lord Sydenham and proposed the re-construction of the cabinet, and that the French Canadian members he named should be introduced. This communication was made within forty-eight hours of the opening of the house. Lord Sydenham rejected the proposition and objected to the time and manner in which it had been submitted; but as he was not one to battle for form, his main objection must have been the determined and unqualified opposition to the union by the parties named, and their expressed resolve to obtain repeal of the law. The consequence was, that on the day of the opening of the session Mr. Baldwin resigned, still professing his personal confidence in lord Sydenham.

The proceeding was one greatly to embarrass the government, but the firmness and straightforward courage of lord Sydenham came to his aid. The mode in which the step had been taken by Mr. Baldwin created sympathy on the side of

the governor-general. Many disliked the composition of the executive council, and desired the introduction of the French Canadian element, but they confided in lord Sydenham's integrity, good intentions and wisdom. They were unwilling to support any proceeding which would throw obstacles in the way of the success of his policy. They gave credit to his sincerity in the establishment of the government he had promised, and they could not but recognise the persistent hostility with which the French Canadians were opposing the union ; and that while the British government was inculcating the doctrine that the past should be entirely forgotten, they were unwilling to forget the least of their complaints, or in any way to modify the pertinacity of their pretensions. Mr. Baldwin's resignation, although ultimately leading to important results, did not affect in a perceptible manner the political atmosphere of 1841.

That lord Sydenham himself had the fullest desire to consult the well-being of the French Canadians is shewn by his offer to appoint Mr. La Fontaine solicitor-general. The offer had been made in the most considerate form, and in itself bore testimony to his conciliatory feeling towards the French Canadians, and might have been held to have been an assurance of the legitimate considerations they would hereafter obtain. It was refused ; the ground assigned is that he was actively in opposition to the majority of the measures of the governor-general. Mr. La Fontaine at a later date refused to countenance all agitation for the repeal of the union. What had originally repelled him were the conditions exacted by Upper Canada, which he conceived to be unfavourable to the lower province, viz., the number of representatives ; the common assumption of the debt ; and the eventual use of the English language alone in the legislature.

Men of sagacity, however, could perceive that the question of representation must become a matter of subsequent arrangement, if the anticipated increase of population in Upper Canada did not follow ; that the debt for public works was in reality but an act of justice, as it had been incurred

for works undertaken for the common benefit. The principle had indeed been recognised by a subscription in Lower Canada of \$100,000 to the Welland canal; and the question of language could not possibly be a finality. There was a party, however, in Quebec, headed by Mr. Neilson, who declared undying war against the union, and it is impossible not to think, more in the interest of the city of Quebec than for any political cause. After stating the political falsehood that the population of Lower Canada was double that of Upper Canada, that the debt of Upper Canada had been charged to the lower province, and that a civil list had been established, and the French language proscribed, it proceeded to say: "Our rights, our liberties as British subjects are crushed under our feet. Nothing in the world should induce us to vote for a single candidate, who did not declare himself against this infamous act and its provisions."

Mr. La Fontaine indulged in no such fanfaronade. His views were expressed by the *Canadien*.\* "Although we are sincerely opposed to the legislative union, we too well foresee the anarchy, the political and social misery that any agitation for the repeal of the union would entail upon all parties, not to desire that the two populations should come to some understanding, to carry out the brilliant destiny that nature has placed within their grasp."

Mr. La Fontaine's procedure in following out this principle is a matter of the history of the union.

The imperial parliament was sitting when lord John Russell received an account of the proceedings in Canada. Accordingly, he introduced the bill for re-uniting the Canadas into one province. The act had been framed by sir James Stuart, and included clauses creating municipal institutions throughout the province. Owing to letters received from Canada, these clauses were objected to in the house of commons as bearing on local institutions; and it was thought they should be left to the decision of the provincial legislature. In consequence, lord John Russell, fear-

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\* [20th of November, 1840.]



ing the bill might experience some opposition in the house of commons, consented to omit these clauses, and they were struck out. The bill received the royal sanction on the 23rd of July, 1840, but from a suspending clause, it did not take effect until the 10th of February, 1841.

This change of legislation in England was in opposition to the theory on which the union bill had been conceived by lord Sydenham. One of the arguments used in the house of commons was, that there was not sufficient local knowledge on the subject. Even if this had been the case, it did not touch the principle on which the bill was based. "No man," wrote lord Sydenham, "in his senses would think for a moment of the union, without its being accompanied by some sort of local government, in which the people may control their own affairs, and the executive at the same time obtain some influence in the country districts." Without such provisions, lord Sydenham conceived that the government in Lower Canada would have been impossible, and in Upper Canada most difficult. No provincial legislature will part with the power it possesses, and although the initiative of money grants was to remain with the executive, it would have proved a constant source of difficulty to deal with the petty sums called for by municipal undertakings. There would have been a constant aggregation of members to vote for individual jobs to obtain the support each desired. In modern times the question of the expediency of the municipal institutions has passed out of argument, for it reduces to local control the consideration of the local works called for in the neighbourhood.

Lord Sydenham saw the necessity of relieving the government from this embarrassment. Accordingly, on his return to Montreal he introduced into the special council an ordinance establishing municipal institutions throughout Lower Canada, believing that when the law was in operation, it would facilitate the passage of a similar act for the upper province by the united legislature. His calculation proved to be correct, for such an act was passed in the session of 1841.

The second measure was the establishment of registry offices in Lower Canada, by which the obligations on land could be distinctly known, and the conditions on which a purchaser completed any transaction could be established beyond doubt or cavil. The discussion on these two measures delayed the proclamation of the union. The theory had been, that it should be issued on the first of the year; but owing to this delay, it was deferred to the 10th of February. The choice of this date was because it was on this day that the imperial parliament assented to the act which had suspended the constitution of Lower Canada three years previously, and it was thought an act of wisdom to re-establish on the anniversary of this extreme measure constitutional liberty, which effectively terminated it. It was, also, the date of the conclusion of the treaty of 1763, which ceded Canada to the British crown, and it was likewise the marriage day of the queen. Accordingly, it was announced in the *Gazette* of the 6th of February that on the 10th of the month lord Sydenham would open the queen's commission, and take the oath of office as governor-general. On that day, in Montreal, in the presence of all the dignitaries of the church and of civil life, of the commander of the forces, of officers commanding regiments, and all who could be collected of the principal citizens, the oath was taken, and the two provinces were established as the province of Canada.

Lord Sydenham issued a proclamation on this occasion, in which he urged the inhabitants to be united in sentiment as in name, and reminded them that they were "a part of the mighty empire of England, protected by her arms, assisted by her treasury, admitted to all the benefits of trade as her citizens, their freedom guaranteed by her laws, and their rights supported by the sympathy of their fellow-subjects there." \*

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\* This proclamation may be considered the charter of provincial freedom, by which the liberties of the province are secured. I have appended it at the close of this chapter, for it appears to me to have passed out of memory.

I have now reached the period which I consider expedient to select as the close of my history. What happens after this date appertains to the narrative of the new epoch. There is, however, one event, so extraordinary in its character that mention of it cannot be omitted: the death of lord Sydenham, which took place at the close of the first parliament. Lord Sydenham lived to summon the first session of united Canada. It would almost appear that his special mission by fate was to accomplish the difficult undertaking of consummating the union; and when his labours had reached fruition and there was every ground for belief that the future would be one of peace, harmony, and success, he was to depart from the scene. There was something even tragic in his end. As he was returning from an afternoon ride on the 4th of September, in the neighbourhood of Kingston, his horse fell; and unable to withdraw his foot from the stirrup, he was dragged some distance. Though he was soon extricated, it was found that the bone of his leg was fractured, and a fearful wound inflicted upon the knee. After several days of suffering, he died on the 19th of September. To the last he was engaged in his duties as governor-general. He received the members of both houses as was necessary, and did not relax an hour in attention to the important matters which yet demanded his consideration.

The prorogation of the legislature was appointed to take place on the 15th of September. At the request of the assembly it was deferred to the 17th. Lord Sydenham corrected his speech,\* in the hope he would be able to attend, but finding himself utterly unable to rise from his bed, he deputed major-general Clitherow to conduct prorogation. With great feeling Clitherow alluded to the governor-general's condition. His hard fate was the cause of universal sorrow. He died on Sunday, the 19th, at seven o'clock in the morning.

Lord Sydenham's character has not received the justice it can claim from French Canadian writers. While admitting his zeal, his capacity for work, and unceasing activity, they

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\* After his death the speech was published.

affirm that his desire was to stamp his personality on all measures, and that he had but an imperfect idea of responsible government. Such writers are incapable of understanding the faults of the leading liberals of both provinces. To this day, the position of the governor-general in our political system is not clearly determined, and there are occasions where the question of his influence has been on the verge of causing trouble. In the early days of responsible government it was, with a certain class, supposed that the governor-general was simply politically powerless, and little more than a registry clerk of the decrees of council. The misfortune was that many public men acted on this principle. The delicacy of these relations is extreme, and after a half century's experience of our form of government, it is felt, that all tension in determination of the principle, if there be one, is to be carefully avoided. Many French Canadian writers still affirm that the union was carried in the lower province in despite of public feeling, and that the measure was passed in Upper Canada on conditions unfavourable to them. They forget all that had occurred to impress upon Upper Canada the necessity of guarding against any impracticable policy that might affect its interest in the future. The whole legislation of the lower province had been to repel the public feeling of Upper Canada. The house, when appealed to by the upper province, had refused to increase the import duties; the province had reluctantly paid the proportion of duties due to Upper Canada; and the intervention of the mother country had been necessary to settle the question. Moreover, they had opposed immigration, speaking of the new comers as *intrus*, and would enter into no scheme for the improvement of the navigation of the Saint Lawrence. That any steamboat connection at all existed between the provinces was due to the action of the imperial government, in the construction of the Ottawa and Rideau navigation. The want of generosity of treatment of the eastern townships shewed how unfavourable was the feeling to anything British, under the mischievous agitation of Mr. Papineau. Further, there was the important fact

that the constitution had been suspended only when the government was on the verge of anarchy, and numbers had broken out in rebellion.

There was no unkind feeling to the Lower Canadian people. The desire of Upper Canadians was to see the province prosperous and happy, but at the same time that it should not possess the power of weakening their own well-doing. Lord Sydenham saw from the first that the only mode of bringing peace to Canada was to wipe out the whole past in forgetfulness.

The difficulties he experienced in satisfying the extreme views of many of the prominent men were great; but that he did overcome them was owing to the tact and judgment he displayed, and the confidence he caused men to feel personally in him. He obtained from the house of assembly in Toronto the best measures that could have been passed, and it was soon understood that it possessed within itself the means of adaptation to a more wise and liberal policy in the future. Lord Sydenham found no heads of departments trained to work in constitutional methods; and had to create wise and efficient instruments. The best comment upon the inequality of representation is to be found in the fact that in less than twenty years Upper Canada was demanding an increase of members.

The success of the union is lord Sydenham's epitaph. He left not a regret behind him, and will long be remembered as one of the greatest of imperial statesmen, who understood the capabilities and the resources of Canada, and wisely strove to allay the political passions which tore the province to pieces. His example created a class of public men whose effort is to advance the fortunes of the Dominion, to secure political liberty; to avoid also all exaggeration of expectancy, and the wildness of ill considered measures, which still spring from untrained and presumptuous politicians. It is, indeed, difficult precisely to estimate all that we owe to lord Sydenham's memory.



These pages bring to a close the labours of twelve years of my life, that I have consecrated to this history. I cannot think the remark improper, when I express the hope that they will not prove altogether useless. I cannot expect that the narrative I have published, or the opinions I have expressed, will be acceptable to all who read these pages. I may, however, claim that I have not wilfully departed from truth, and cannot accuse myself of having strained any record to meet a preconceived prejudice. Nor am I conscious that in any one case I have done injustice to the memory of any particular person. I have been sustained by the thought that this knowledge of the past will have its influence on the present, and that the certain Nemesis which history brings, in more or less time, may deter the too reckless and the too unscrupulous from following the policy that self-interest points out.

We are daily taught that there is an hour of reckoning for everybody; and that the parish Polonius, without the wit and geniality of the Shakesperean original, who varnishes over the thin pretensions of the provincial attorney with self-sufficiency and pomposity, cannot commit an act of injustice which will remain "a thing in a corner." While, on the other hand, the statesman of large views and patriotic mind may rest certain that justice will one day be rendered to him.

The later chapters of this work have been a matter of difficulty, owing to the nearness of the times to ourselves. Personal feeling, I fear, will to some extent be awakened by much that has been said, for we are walking over fires covered by treacherous ashes.\* Fortunately, as I am writing, these old political passions, generally speaking, are becoming extinct; if they are appealed to, it is by men who are interested in awakening discord, and who hope to profit by prejudice and wrong. They become less violent every decade, and as they stumble into forgetfulness, with the wise

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\* . . . "incedis per ignes  
Suppositos cineri doloso."

[Horace, Book II., ode i.]

and just they are held in the greater contempt. What I have endeavoured to show is, that the truths of our history are chequered like all else in life; but that the progress of the Dominion has been steady and continuous. We have still much to amend, and it cannot be denied, much to learn. We have, however, the consolation of knowing that the seeds of wisdom have been sown, and it remains for us and our children to cultivate them.

There is one point on which I may hopefully dwell, and that is the fact that we remain a part of the great British empire. Throughout the Dominion it is a source of pride that such is our condition.

British statesmen have not always acted wisely towards us; but there can be no doubt of the great truth, that the mother country has unceasingly desired our prosperity and happiness, and has made many sacrifices to sustain them. I believe that pride in this relationship is a dominant feeling in British North America: for my part, I will add in the words of Byron: \*

“And should I lay  
My ashes in a soil which is not mine,  
My spirit shall resume it—if we may  
Unbodied choose a sanctuary.”

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\* [Childe Harold, Canto IV.]

PROCLAMATION OF LORD SYDENHAM ON THE  
ESTABLISHMENT OF THE UNION.

His Excellency the Right Honourable Charles Baron Sydenham, of Sydenham, in the County of Kent and Toronto in Canada, one of Her Majesty's most Honourable Privy Council, Governor-General of British North America, and Captain-General and Governor-in-Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick and the Island of Prince Edward, and Vice-Admiral of the same.

A PROCLAMATION.

In obedience to the Commands of the Queen, I have this day assumed the Government of the Province of Canada. Upper and Lower Canada, separated for fifty years, are once more re-united and henceforward form but one Province under one administration.

On my arrival in Lower Canada I declared that one of the main objects of my mission was to put an end to the suspension of the Constitution of that Province and to restore to its inhabitants the full benefit of British institutions. That object is accomplished. By the Imperial Act, the Union which fixes representative Government is again established, and that control by the People over their own affairs, which is deemed the highest privilege of Britons, is once more restored to them. The act which provides for this affixes certain conditions to the Grant, over which the Provincial Legislature can exercise no authority, while it leaves to the final arbitration of that Legislature all questions but those which the Imperial Parliament, in its wisdom has deemed essential itself, to determine—the Legislative Re-union—the establishment of a secure and firm administration of Government and the maintenance of the due relations of Colony and Parent State. Efforts have been sedulously made to deceive the unwary, and especially some of our fellow subjects of French origin upon this point, to represent these Provisions as injurious—to treat them as susceptible of change here—and to excite opposition, which can only prove as mischievous as it must be useless.

I rely, however, on these efforts proving unavailing, and I appeal with confidence to the Loyalty and good sense of the Inhabitants of Lower Canada of whatever origin, so to use the power which is now again committed to their hands, as to justify the trust which Our Sovereign and the Imperial Parliament have reposed in them, and cordially to join in an endeavour to promote the common interest of the United Province.

In Upper Canada the sense of the people was declared fully and freely, through their Constitutional organs, upon the great question of the Union itself, and on the principles on which it should be based. Those principles have been adopted by the Imperial Parliament, and it will ever be a matter of the utmost gratification to me, that my humble efforts have aided in perfecting a measure, securing, as I firmly believe, to that Province which I regard with feelings of affection as well as interest, advantages which it could attain by no other means.

Inhabitants of the Province of Canada : Henceforward may you be united in sentiment as you are from this day in name ! Who can visit, as it has been my

good fortune to do, the extensive regions which are now united in one common denomination, and fail to acknowledge the vast resources they present, for all that can conduce to the comforts and happiness of man? A part of the Mighty Empire of England—protected by Her arms—assisted by Her Treasury, admitted to all the benefits of Trade as Her citizens—your freedom guaranteed by Her Laws, and your rights supported by the sympathy of your Fellow-Subjects there—Canada enjoys a position unsurpassed by any Country in the world.

It is for you, its Inhabitants, to cultivate these advantages—to avail yourselves of the new Era which now opens upon you. Our Gracious Sovereign and the people in England watch with anxiety the result of the great change which has to-day received its completion. It is the first wish of the Queen to rule in the hearts of Her Subjects, and to feel that they are contented and prosperous under Her mild and just sway. Her Parliament and Government, in conferring on you new Institutions, have sought only your happiness and advantage. In your hands rests now your own fate, and by the use which you will make of the opportunity must it be decided. May the all-wise Disposer of events so ordain your acts that they may tend to the promotion of Peace and Happiness amongst you, and may He pour His Blessing upon that Union, of which it is my pleasing duty this day to announce to you the completion.

Given under my Hand and Seal at Arms, at the Government House, in the City of Montreal, in the said Province of Canada, the Tenth day of February, in the year of Our Lord One Thousand Eight Hundred and Forty-One, and in the Fourth year of Her Majesty's Reign.

By Command,

D. DALY,

*Secretary of the Province.*





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